A REPLY

TO A

Charge delivered to the Grand Jury

AT MADRAS,

BY SIR FRANCIS MACNAGHTEN, Kt.

A
REPLY

TO THE

CALUMNIES AND MISREPRESENTATIONS

CONTAINED IN A

Charge delivered to the Grand Jury,

AT MADRAS,

On the 18th Day of January, 1811,

BY SIR FRANCIS MACNAGHTEN, Kt.

ONE OF THE JUDGES

Of the Supreme Court of that Presidency.

BY

WILLIAM DOUGLAS BRODIE, Esq.

Registrar to the Carnatic Debts at Madras.

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INTRODUCTION.

THAT the subject of Mr. Brodie's letter may be clearly understood, the Gentleman to whom the task of its publication has been confided, deems it necessary to prefix to it that part of the Judge's charge, in which the gross imputations which are so satisfactorily and calmly refuted, were originally conveyed. It is necessary to remind the reader, that it purports to be a charge delivered by a judge to a grand jury; because from its style and diction, and the temper of mind it indicates, it would be otherwise a difficult inference to draw. It was delivered at Madras on the 18*th January*, 1811.

" I have written to the Chief Justice on the propriety of laying the informations before the Grand Jury. In his anwer he tells me, that it was formerly the practice of this Court to do so, and that he approves of the restoration of that practice. In Ireland the practice formerly was to proceed upon the informations and nothing else; but when my Lord Reddesale went there as Chancellor, he thought the practice objectionable, as the informations did not amount to the best evidence which the nature of the case admitted. But it must be observed, that all evidence before a Grand Jury is ex-parte, and although there are doubts with respect to the extent to which it ought to go, no authority goes farther than to say it ought to be such, as

if unanswered is likely to induce a petty jury to find the accused guilty; and I think with great deference to so high authority, although the objection would be unanswerable if applied to evidence before a petty jury, that it is not so conclusive as applicable to a Grand Jury. The result, however, of a conference which the Chancellor had on the subject with the judges, was a determination that the old practice should not be discontinued; but the judges undertook to recommend in their charges to the Grand Juries, that they should, if they found the informations not quite satisfactory, adopt a viva voce examination. This the judges invariably do, but I state it from my own knowledge, having often of late served on grand juries in Ireland, that nine indictments out of ten are now found upon the informations alone.* This I mention to prove that it cannot be improper to give Grand Juries the use at least of the informations. Yet I do not advise any innovation as to the evidence upon which you are to proceed, but it is my wish that you should ask for the informations if you think you can be assisted by them; and I wish it the more from what has lately passed in this Court and from feeling that it must be advantageous to the party accused; as by enabling you to contrast what a witness has sworn with what he is swearing, you may be enabled to judge of his credit better than perhaps you otherwise might be; and at all events they may materially aid you in examining the witnesses.

"I ought here, perhaps, to except the cases in which certain prosecutors have pleased that there should not be any information at all—cases in which they of their own authority have used the king's name, as a prosecutor, and did not even use the

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* This attempt to introduce the practice of Ireland (admitting it to be so) in an English Court of Law, is highly indecent, to say no more of it But it betrays a gross ignorance of law. It has been solemnly decided in Denby's case by the Twelve Judges of England, that the *grand jury ought never to be assisted by the depositions taken before the magistrate.* Every lawyer must know on what principles, it was so ruled.

form of sending their indictments through this Court or the Clerk of the Crown, but clandestinely carried them before the Grand Jury and surreptitiously, by what particular means they best know, procured the finding of several bills.

"Before I enter further upon this subject and the other *enormities* which have been practiced, I must beg of you to be assured that I make no reference whatsoever to those verdicts, which may well be emphatically called, the verdicts in this Court. I do it the more especially, because I know it is the nature and interest of wrong-doers to identify or confound themselves, if possible, with those of a very different description.

"I never had an opportunity of reading the evidence in the cases to which I refer, but I am acquainted (and I consider it an instance of my good fortune to be acquainted) with several of the gentlemen who were on the juries in those trials, and I could not think of them as I hope they know I do, if I was not convinced that their understandings are as capable as I am, of drawing a right conclusion from evidence, and from their principles utterly incapable of wilfully drawing a wrong one—more I cannot say—for my acquaintance with those gentlemen forms the only ground upon which I can build any opinion, and though I cannot say more, I am happy in having an opportunity of saying so much.

"You may have heard of the inutility of the prosecutions in which the abuses I am alluding to have been practised, but it is my duty to tell you that this is a question with which you have nothing to do—we may lament to see useless prosecutions carried on, but in this place we must look to their legality alone, and judge of them according to the evidence with which they may be accompanied.

"I must also tell you gentlemen, that you are to discard from your minds the motives of the prosecutors—and as I stated to the Grand Jury at the last Sessions I shall repeat to you. I have known many useful prosecutions carried on from

the worst of motives—we may often think it proper to punish the accused, and at the same time we may be permitted to execrate the accuser. But although in the execution of our offices we have nothing to do with the motives of the prosecutors, we have much indeed to do with the means by which prosecutions are commenced and proceeded in. Those may be such as to be infinitely more pernicious to society, than any crime can be made by its impunity.

"Some of those abuses to which I shall beg of you to give your attention, I discovered by accident, and I am persuaded I was not more surprised and shocked by the discovery than every gentleman who was on the Grand Juries which were deceived into the finding of bills under such circumstances will be, when he hears of the frauds and their consequences, by which he was treppanned into an act so totally subversive of justice, and of our common rights. At the last sessions I saw enough to excite my suspicion, and I was determined to make a most minute enquiry into all the proceedings. The first step I took was to desire the Clerk of the Crown to send me the several Indictments which had been laid before the Grand Juries on the subject of the Nabob's Bond. Among them I saw several without informations—I suppose it owing to a neglect of his, and enquired for them, when, to my utter astonishment, I was informed that none had been taken. I asked if the indictments had gone in to the Grand Jury through him. He said they had not. Then, indeed, my suspicions greatly increased, but it was not until after much more enquiry and great consideration, that I imputed guilt to any person. I was disposed to ascribe it to ignorance or error, and inclined to take the mildest means of preventing its repetition. I cannot deem, because neither law nor reason will deem, any act guilty without a guilty concurrence of the mind. As long as doubt was possible, I doubted, but as I advanced, the proofs so multiplied and thickened about me, as to exclude all hesitation; and

when there is every species of malversation carried into effect which, without a previous abuse, could not have crept in, I then must and will conclude, that the abuse was contrived for the purpose of bringing those malversations into action.

"There is no good motive by which those prosecutors could have been actuated, in taking the course which they took. Had they proceeded in the usual line, it would have cost them nothing; by the one they adopted, they subjected themselves to the whole expence. I know it has been urged (for want as I suppose of a better plea) in their excuse, that they feared the parties charged might have intimation of the proceeding against them if the complaint had been taken to the Justice's office. This is not true—and what is the consequence of the mode adopted? when the bill is found and (not returned indeed in these cases but) given by the Grand Jury to the Clerk of the Crown, the first thing he does, is to hold it up and read aloud, that such a bill, for such an offence, is found against such a person. Is this the secrecy they aimed at? by this procedure the persons charged have notice by proclamation to fly. I repeat it, they had no good motive, and I feel convinced, and that you will presently feel convinced, they had every bad one.

"By this new invented mode of proceeding there are not as I told you, any informations taken by any person, or any recognizances entered into by those who prosecute. It will then at once occur to you, that from the want of informations the party accused is deprived of a great benefit, by not being able to come at the prosecutor if the charge should be groundless. A man falsely sworn against might have some satisfaction in being able to prosecute him who swore falsely for perjury, and it is of great consequence to the public, that he should be enabled to carry on such a prosecution. It would also be some consolation to a man in such a situation, to be able to shew to the world his defiance of the charge, which he might do when standing to take his trial by having his accusers called upon their recogni-

zances to appear against him; but even of this, according to the ingenious contrivance in question, he is totally deprived—and why is such a proceeding as that which I condemn resorted to? Because it leaves the whole of the process in the hands of the prosecutor, entirely at his own disposal, and himself totally unrestrained in the use of it; you will accordingly see, that this prosecutor of whom I have much to say, engrossed in his own person, every office pertaining to justice, from the catchpoll to the King inclusive—from the power of apprehension to the power of pardon. The office of justice of the peace, did not indeed fall within the scope of his scheme, but this, as he has chosen to usurp, he has entirely abolished.

"I am aware that the bench warrants here go to the sheriff's office, but there they rest under the direction and remain at the order of the prosecutor. If he chuses that they shall not be executed, they are not executed. If he points out to the sheriff the person of the man he wished to be taken, he is taken; or, if he sends the sheriff on a wild goose chase to the house of the party indicted, when perhaps he knows him not to be there, the sheriff goes, is made a fool off, and there it ends. But I affirm, that the process is as much in the power of the prosecutor, as if it was in his own pocket—that he may convert it to what purposes he pleases—you shall see to what purposes this prosecutor pleased to convert it. How he spread it out into a screen for the guilty at one time—how he twisted it into a scourge for the innocent at another.

"I shall now give you a specimen of the rectitude of his conduct under this accumulated authority. He indicted three men Linga Reddy, Napata Kissen Row and Kisnopa Chitty. The first was the only man he thought fit to bring to a trial. The second, although a great criminal, was not apprehended—the third indeed he could not be expected to apprehend or to bring to trial, inasmuch as he never hadany existence—of these two last, I shall say more by and by—of the man who was brought

to his trial I shall now say, although he was tried before me, and although I attended to all the evidence, I am at this moment unable to say for what he was brought to the bar under colour of justice, if it be not just that a man should answer as a criminal, because he had been born a fool. The only thing imputed to him was, that he gave six hundred Pagodas to Sooboo Row for making false entries and furnishing false evidence in the dufters to support a forged bond; but it was not proved that he was to derive any benefit from the fraud—on the contrary, he was expressly cut out of any share in the distribution of the spoil.

"We had upon his trial, an account of the parties whom I shall now mention, and it was impossible for the witness to tell his story without disclosing the whole.

"Sooboo Row, to whom I must presently draw your attention more particularly, was an officer in the Durbar, consequently more criminal than any other person could have been, as he combined in his crime not only the whole of the infamy with which Linga Reddy was charged, but that of breach of trust and an abuse of every principle of common honesty. I was sworn, that Linga Reddy had given him six hundred pagodas for the purpose I have mentioned, and that he was to have had besides six shares out of sixteen of the ultimate profits of the conspiracy—yet this man, although I presume they might have had the evidence of Chittoor Kisna Row, by whom the bribe was said to have been conveyed to him, continues in the town of Madras, and is not prosecuted at all. Independent of this evidence, there is that of his agreement for 6-16 of the produce of the conspiracy. Of his wealth I know nothing, except that he seems to have been concerned in a very lucrative trade; and how he procured his indemnity, except from the prosecutor's account, I do not know. Upon that, I shall, pass some comments in their proper place.

"Yusuff Ali made a false seal which was not approved of, and

therefore not used, for the purpose of sealing the forged bonds —he is not indicted.

"Rama Charee produced the first forged bond the witness had ever seen, yet there is no proceeding against him.

"Meer Hussain Ali made the seal which was used and affixed to the forgeries—it was affixed by himself, and he was to have had two shares of the profits, yet he is exonerated from all enquiry. Chittoor Kisna Row, who conveyed the money from Linga Reddy to Sooboo Row, is not noticed by the prosecutors.

"And Meer Bawker Saeb, whose house was the nest of all the conspirators in whom all the rays of this villainous confederacy were converged and concentred, receives the prosecutor's most gracious pardon, and is admitted approver. No justice of the peace would have dared to make such a dispensation, and no honest man could have brought himself to do it—would any justice of the peace have hesitated to admit Chittoor Kisna Row against Sooboo Row? or, would any honest man have admitted such a delinquent as Meer Bawker against such a simpleton as Linga Reddy? no—this is a disease, a noisome, a loathsome one it is—and like others of its nature, it fell upon the weakest part.

"You may hear perhaps, that some of the parties could not be apprehended—for one I neither will nor can believe it. The only thing that could at all excuse the prosecutors for taking the business out of the ordinary course, (when I speak of excuse, I mean as applied to our indulgent consideration, and not to the law) would have been the certainty of being able of himself to bring the offenders to justice; but when he has transgressed every rule of proceeding and so conducted himself in his transgressions, I will believe that he did it for the purpose of iniquity; and I must tell you, that the jurisdiction of this court, attaches to every offence committed as this was, within the limits of the town of Madras, and that warrants would have run after the offenders wherever they might have fled for refuge.—

This I dare say the prosecutor well knew, nor will I shew any indulgence to his ignorance of that, which in so extraordinary a case, he undertook to know.

"Let me again return to the wrongs which necessarily arise out of these proceedings as the parties have been pleased to carry them on.—The judge is shut out of every opportunity of making observations to the Grand Jury, on the cases which are to come before them, or of giving them the assistance of his opinion in point of law. This you well know is the bounden duty of the judge; but, from the proceedings in reference, he is deprived of the possibility of performing that most material part of his office.

"The prisoner has I conceive, a right to the use of the informations against him, in order that he may, as it were, confront the witness with himself. This was expressly ruled in the case of Lord Stafford, and has I believe, been the course ever since —of this right, these public accusers totally deprive him.

"Suppose the case of a man falsely accused—as there are no informations: he cannot be redressed by an indictment, as he might otherwise be for perjury, Perhaps the accusing party may be satisfied with fixing the stigma and disgrace upon him, which he must bear in consequence of a bill of indictment having been found against him—what is he to do? He goos to the Grand Jury and complains of the hardship of his case. He asserts, that he is not only guiltless, but entirely ignorant of any thing alledged against him. He wishes to know, and he cannot guess what has been sworn before them which could have induced them to find the bill. This he desires, as the only expedient by which he can clear his character. He knows nothing but his own innocence, and he beseeches the Grand Jury for mercy's sake, merely to make it possible for him to shew that to the world. But they can do nothing for him— they must say "hard as your case is, and remiss as we were in taking the indictment against you from any hands but those of

the Clerk of the Crown, we are unhappily, by the injury we have done you, bound to a continuance of it—our oath of secrecy prevents us from giving you any satisfaction, and much as we wish it, we cannot afford you any relief." Here then, is a solicism in British Jurisprudence. Here is a living contradiction to all the boasted equity of our laws. Here is a man suffering in a British Court of Justice; suffering from the abuse of British Laws; and, by that abuse alone, suffering the most grevious of wrongs, without the possibility of a remedy. Here is a monster, a non descript—or if I may so term it, a lusus legis created for our aversion and abhorrence—a thing—which never could have had a being, if it had not been engendered by a forced and unnatural conjunction between miscreancy and law.

"There was one indictment which was brought forward on the subject of a Nabob's bond in the ordinary course at the last sessions, and another was slipped into the Grand Jury room according to the peculiar practice of the prosecutor. By this last, a bill was found against no less than six men for conspiracy —upon what evidence we may speculate, but cannot know. The first was thrown out. I thought it my duty to accompany it with some observations to the Grand Jury, as from the two trials which had taken place before me at the preceding sessions, I knew there was much to be reprehended in the mode of carrying on these prosecutions.

"I told that the Grand Jury, that they ought to be particularly careful in the investigation of such cases; for it had appeared before me, that a former Grand Jury had been deceived into finding a bill against a person who seemed never to have existed; and it had also appeared, that some of the parties who were most guilty, had been allowed to escape unindicted. I further stated, that perjury had been committed by a witness who did not appear to have had any interest in the prosecution; and from this, I inferred subornation. I said then, as I now

repeat, that I had no reason for this inference, except that which could not but arise from the nature of the thing—but that I was unable to dissociate the ideas of perjury and subornation; I could not think that the wretch had perjured himself for the sake of committing the sin. I did not think he had done so from a towering ambition, which led him to aspire to the honors and the elevation of a pillory. I could not think he had done so from a desire to change the tenure by which he held his own ears, wishing to convert it from a tenancy for life into a tenancy at will. If I had sought for an adequate cause, I should have found it in subornation. Yet I did not draw so much a rational as a natural conclusion—I was forced by that principle, which if not innate is instinctive, which without the effort even of violition, transports us from effects to their causes, and which makes us rational without the art of reasoning. Why the writer of a letter to whom I shall soon draw your attention, did not take notice of this as well as of the other two points I submitted to the last Grand Jury, I do not know. Did he insist upon his right of acquittal on the first two because he was innocent? If so, I might conclude that his silence upon this, was the consequence of his guilt—but I do not—and I freely acknowledge, had any man asked me if I thought the writer of that letter guilty of the charge, I should have answered—no—I might now hesitate in answering the question, because he seems to have taken upon himself all responsibility, although even at this time, notwithstanding all the pains he has taken to convince me of it, I hardly think him guilty, and I'll tell you why, for it requires to be accounted for. His counsel stated, that this witness had been one of the conspirators, and had turned against his associates, because he was cut out in a division of the profits of their guilt. His perjury consisted in his swearing that he had not had any concern (for this is the new mode of admitting approvers) in the crime.—Now whatever my sentiments respecting Mr. Brodie (whose

name it would be an affectation of delicacy any longer to conceal) may be, I could not think him so stupid as to instruct his counsel to state one thing and to suborn his witness to swear another. This I desire to be understood as the reason, and the only reason why I would have acquitted him of the charge.—But do I think him blameless? far from it. This very witness had sworn in the same manner upon the two trials. In the first, Mr. Brodie was examined and asked how he thought this man had obtained a knowledge of the circumstances? He answered, that he derived it from having been one of the party—I must think that prosecutor culpable and criminal, who produces a witness on a second prosecution, after having believed that he had perjured himself upon the first—and I could not have supposed any person bronzed and brazened enough to come forward and claim credit from the public for such proceedings, unless indeed he had first succeeded in persuading them it was for their interest that prosecutions should be carried on by iniquity—that truth should be disregarded, and that perjury should pass with impunity.

"I now come to the letter and I trust you will believe me, when I assure you that I look upon it with the utmost contempt—that I could not reduce myself to the condescension of treating it with the slightest notice, but that I think the public will be served by an exposure of the profligate avowals which it contains.

"*There is nothing that could distress me more than the imputation of having used the office in which I am placed, for the purpose of injuring any man's feelings.* But I owe a duty to the public, which, I hope, ever will impel me to treat such abuses as may appear judicially before me, without either ceremony or reserve. The writer of this letter has thought fit to *make himself* a party, and he must take the consequences. His conduct since he did so as well as before, (for it now seems he is to answer for all) makes it necessary that I should discharge

my duty to the country, without any consideration to his feelings.

"If I see extraordinary depravity, gentlemen—or let me put a case. Suppose one of you in your walks was to see a child, too young to raise its hands against itself, with its throat cut in the way—would you not without hesitation exclaim, this is a most inhuman and barbarous act! The wet nurse comes forward (you must know prosecutions as well as children have sometimes wet nurses) and says "I consider that observa ion as directly affecting my character"—I am sure you would answer—what then—I still consider it a most inhuman and barbarous deed, and your taking the responsibility upon yourself, cannot vary its nature. You cannot lessen my detestation, although you may change its direction. It is now transferred from the crime to the criminal, and no more than that can be affected by your brawling This is precisely my situation.

"I shall now, with your leave, direct the officer of the court to read a copy of the letter, which I have made for the purpose. I have another before me, and I wish you to take a copy along with you, in order that you may be able to judge of the justice of such comments as I shall make upon it.

"'*Gentlemen of the Grand Jury.*

"'When I was examined before you yesterday as a witness, respecting the forgery of a Nabob's bond, I took the liberty of representing the mistake into which his lordship, the honorable Judge, had fallen in stating to you in his charge that a former Grand Jury had been induced to find a bill against a person who in reality had never existed; and, that his lordship guided by such an impression, had expressed sentiments respecting the views and proceedings of the prosecutors on that occasion, which I considered as directly affecting my character.

"'I am far from thinking gentlemen, that his lordship could have any intention to attach dishonorable intentions either to myself as the ostensible prosecutor; or, to the legal advisers

who gave me their assistance on that occasion; but, as I am aware that any remark coming from such authority, may tend to create an unfavorable impression upon the minds of those who are not personally acquainted with me, I feel myself compelled to crave your attention to the following facts, which will clearly shew you the unhappy mistake under which his lordship's opinion must have been formed.

"'Upon the trial of a person of the name of Linga Reddy, two sessions ago, as a party concerned in the forgery of a Nabob's bond, for Pagodas 97,914, in the name of Chocapah Chitty; the witnesses that I brought forward on that occasion could not speak to the identity of another person of the name of Mana Kistnama Chitty, who was included in the same indictment, but is not yet forthcoming, from which circumstance his lordship must, I presume, have concluded that no such person was in existence. The fact however, gentlemen, is this, (of which his lordship may not be aware) that the charge as applying to this last-mentioned person, was not established by the oral evidence before the Grand Jury; but, the proof of his guilt, was founded upon the production of an original power of attorney, and an agreement for 10 per cent. Commission given by a person of that name to Messrs. Harington and Co. representing himself as the son and heir of Chocapah Chitty, the originals of which papers were produced before the Grand Jury by the commissioners, but were not tendered to the Court, as the man was not at the bar, and will, I have no doubt, be still forthcoming, if required by you.

"'Whether or not any such person as Manar Kisnama Chitty does or does not exist, I cannot pretend to state; but, of this I am certain, that a bench warrant was obtained immediately after the bill was found, and that every enquiry and exertion has been made to find him out, as well as another person in the same indictment, by the name of Napatty Kissen Row.

"'With respect to another charge adverted by his lordship,

imputing blame to the prosecutors for not having included in that indictment, a person residing at Triplicane, and who appeared from the evidence before the court, to be implicated in the fraud, I beg leave to explain for your information, and that of the honorable Judge, that the observation of his lordship applies, I presume, to Kitjana Sooboo Row, and the reason of his not being included in the indictment arose, in the first instance from the want of direct proof of his being the person who had actually entered the bond in question into the Dufters, no such proof appearing in the papers, shewn to me at the commissioner's office; and, because I was aware that sums of money had often been extorted by the Durbar servants, under assurance that the parties either had or would enter certain bonds into the records, although such entries had been effected by means of a second person. I had besides, a particular reason for shewing certain considerations to Sooboo Row; even, had the proofs against him been more satisfactory, as, ever since the prosecutions against Reddy Row, and Mr. Batley he has given me to expect, by repeated messages, that he was ready to come forward to disclose all the facts that he knew respecting forgeries upon the fund, and was to my knowledge, actually prepared to have done so, as he himself intimated to his professional adviser Mr. Light, and, I have every reason to suppose, had made up his mind in that respect until the determination of the Chief Justice was made known to refer the verdicts for the consideration of his Majesty, when he became less decided, but has still continued to communicate with me on the subject, which circumstance I adverted to in a letter to the commissioners under date the 30th May, 1809, and which they will, no doubt, produce, if required by you.

" ' The motives which have induced me again to intrude this subject upon you in the shape of a letter, will, I trust, be admitted as an apology for the trouble which I am now imposing upon you. Being fully satisfied in my own mind, as to the pu-

rity of my acts and intentions for the public good. I feel the less anxiety on the subject, and shall therefore be fully satisfied with an assurance that you, gentlemen, may think proper to express; and, should you deem it necessary, which I would wish, to transmit this letter for the perusal of his lordship now upon the bench, I am confident, that his enlightened and honorable mind, will induce him most readily to acknowledge any sentiment which he may have expressed from misapprehension, injurious to the feelings of any individual.

I have the honor to be, gentlemen,

Your very obedient and humble servant,

(Signed) WILLIAM DOUGLAS BRODIE.

Madras, 10th October, 1810.'

"It is known, that when this letter was put into my hands, I did not read it; but, that as soon as I discovered the subject on which it was written, I flung it from me with great, and I think, suitable indignation. The foreman of the late Grand Jury (of whom it is proper to say, although I have not the pleasure of being particularly well acquainted with him, that I have an esteem for his character, which, I know is its due,) became possessed of it again. Shortly afterwards I wrote to him, desiring that he might preserve it; and lately requested to have it, believing that the writer must have explained some things, which I knew his conduct required to be explained; thus I came by a copy.

"You will observe, gentlemen, the *opinion* was, that a non-existent person had been prosecuted, the undertaking is "*clearly* to shew the unhappy—*the unhappy* mistake under which the opinion must have been formed."

"I have a great respect for many of the Grand Jury to whom this letter was addressed, but I must say, that I think they were deserted by their usual perspicuity and sense of decorum when they handed it to me. They did not, I am sure, read it with very scrupulous attention, or they must be aware of its impropriety.

" 'But oft, tho' wisdom wake, suspicion sleeps
At wisdom's gate; and to simplicity
Resigns her charge; whilst goodness thinks no ill
Where no ill seems.'

" Had it not been so upon that occasion, I am confident the majority of that Grand Jury could never have been *gulled and cajoled as they were by such slavering nonsense.*

" Had they spoken thus to the writer of that letter, would it not have been becoming in them? If they had said to him we want to know what you would be at, we have read what you have written, we now want to hear what you mean. Attend to the dialogue; you have something to complain of? yes, of somebody having said that Kisnopah Chitty had no existence? yes, who indicted him? I did. Did you ever hear of a man indicting another who did not know of his existence? no—Do you know of this man's existence? no. How long is it since you indicted him? a year. Have you searched for him ever since? most diligently. Can you even now take upon yourself to tell us whether he ever had existence or not? I cannot. Then, Sir, how can you have the confidence, the assurance, the hardihood, the effrontery, the impudence, the audacity, to complain to us of any body (I leave myself out of the question) for having doubted the existence of a man who was indicted by yourself. You who by your indictment of him undertook to vouch for his existence—you who after a twelve month's search " with all appliances and means to boot," with all your bench warrants and your own peculiar process, come drivelling to us and say that you really do not know whether he ever had any existence or not."—It is ridiculous. But you have something else to complain of? yes. It was said that a guilty man had not been indicted at all? yes. You mean Sooboo Row? yes. Did the person of whom you complain mention his name? no. But you guessed it? yes. Well guessed Do you believe him guilty? I do. Was he indicted? he was

not. Was any more said? no. Don't you tell us the same thing yourself? Confusion must be the answer. Why, gentlemen, this is more like the conclusion of a farce than the termination of any thing serious. It has nothing about it but the solemnity of fraud to prevent it from being absolutely laughable, and yet, incredible as it appears, this is the letter and the clear demonstration of the *unhappy* mistake. I beg your attention now to a few other observations on this letter. I will make them as nearly as I can in the order in which they present themselves. The first assersion is, that the trials to which my remarks to the late Grand Jury referred had taken place *two* sessions before the letter was written. This is a falsehood, and a falsehood to the knowledge of the writer himself. I presided at the trials and he was present at them. I was not in this country nor I believe in this hemisphere, two sessions before the letter was written. What was the motive for making the assertion? To shew that so much time had elapsed—that the first opportunity of observing upon it had not been taken, and to leave it to an inference that the observations were not unnecessarily made. The fact is, the first opportunity was taken, and I would have suggested to any judge whose duty it might have been to deliver a charge to the Grand Jury the necessity of more minute investigation, as a former Grand Jury had been so grossly deceived. It was my wish to adopt and I did adopt, the most lenient measure. I know it must always be the best when commensurate with the evil, to be remedied or prevented; but when depravity is proved, we are forced to proceed from admonitions to coercion.

"The letter states that this man whose existence has been so unjustly doubted, was supposed to be a son of Chocopa Chitty. I have enquired about Chocopa Chitty—many of you must know more of him than I have been able to learn, but I have heard that he was as well known as any man, black or white, in the town of Madras. If this be so, there can be no

pretence for a person who has so much intercourse as the prosecutor with the natives, to say that he could not ascertain whether Kisnopa Chitty "the son and heir" of Chocopa Chitty ever existed or not—and how every enquiry and exertion was made to apprehend a man before it was ascertained that such a man was in being, I cannot comprehend. I can only say that the assertion includes a perplexity which my understanding is not framed to unravel.

"I shall now point your notice to the suppression of a truth which you will probably think as barefaced, and as bad as any assertion of a falsehood could have been. The letter states because none of the witnesses could speak to the identity of Kisnama Chitty, and because he is not yet forthcoming, I must have concluded there was no such man—now, gentlemen, the fact of Kisnama Chitty's non-existence was more spoken of than any thing else on the trial. It was the subject of many observations and made a great part of my summing up to the jury. His non-existence, as Mr. Brodie well knows, was not concluded from the circumstances he mentions, for he does know that I turned to the prosecutors and asked where he was, and that the Attorney, with Mr. Brodie at his elbow, answered in the hearing of the whole Court "My Lord I believe there is no such man."

"That I do not know the evidence upon which the Grand Jury found the Bill I admit—nor do I know, although perhaps I could guess, how Mr. Brodie became acquainted with it—but I believe if he is acquainted with it he has not stated it truly—for I do not believe that any Grand Jury ever found a bill against a man for conspiracy, from the single circumstance of seeing his name at the bottom of a power of attorney. It is impossible. There was, I am convinced, other evidence, but it is not quite discreet to state what it was. I believe that both hand writing and identity were proved by perjury, although perjury committed under the new rules of Court is not to be

come at—would you, gentlemen, find a bill of indictment against a man if you had no other ground than that of a power of attorney with so many letters making out his names at its end? You would not. You would begin by a proof of the hand writing and the execution of the power, and that would include in itself evidence of the identity of the executing party. I repeat it I believe there was such evidence, and if so, I am sure it was false—for none of the witnesses examined before the Grand Jury would speak to it here. If it was the object to keep the most guilty person, the person who with his own hand wrote the forged bonds, Napatty Kissen Row, out of the scrape, the indictment being for a conspiracy, we cannot be at a loss to account for the motive of this manœuvre. The witnesses however, when they came into this court found themselves suspected, and did not, therefore, dare to go so far, as I am sure they must have gone before the Grand Jury.

"This power of attorney is stated to have been at 10 per cent. commission to Messrs. Harington and Co. one of the members of that house must therefore have been a necessary witness—accordingly we find the name " H. H. Harington" on the back of the indictment. Thus the prosecutor seems to have been aware of the necessity of his examination, but there was an after-thought which I cannot account for, if it was not carried into practice from a fear that Mr. Harington's evidence would disclose enough to make the Grand Jury doubt of this man's existence; and we find, (you may see the indictment) although his name is on the back of it, that he was not examined, or even sworn. There is something in this. The letter admits, that Sooboo Row appeared to be implicated. A pretty strong appearance indeed of his being pretty deeply implicated. He was the person without the assurance of whose breach of trust to his employers, the fraud could never have been perpetrated, and would have been attempted. The person who had received 600 pagodas for his villany, and who was to have receiv-

ed 6-16 of the spoil. A little implicated he did appear to be sure. He had somewhat the appearance of being implicated certainly. There is rather a striking contrast between the exceeding delicacy of speaking upon his case, and the unceremonious severity of proceeding upon that of some others.

"But, bad as Sooboo Row may be, he is entitled to the benefit which every man may claim, and there is one part of the letter, which, I hope, for the credit of the profession, is not true—Mr. Light, as attorney, is represented as having betrayed the secrets of his client. If he was " the professional adviser" of this man, and if the statement of the letter be true, he must have most scandalously abused the confidence which his client placed in him, for the writer admits, that Sooboo Row has not yet made his meditated disclosures; he must then, if he revealed them at all to Mr. Light, his "professional adviser" have done so confidentially. I greatly doubt the assertion of Mr. Light's having been his "professional adviser," for considering that he was employed in the prosecution of all this man's friends, the selection of him would have been extraordinary—that is one ground of my disbelief—besides, I spoke to Mr. Light on the subject, and he positively denied the fact. He said he never had been in any way concerned for Sooboo Row, except in the case of an habeas corpus, before these prosecutions commence—so he tells me—and for the honour of the profession, I feel an interest in believing him; but he, and the letter-writer, must adjust the difference between them. This I know, if Sooboo Row had been prosecuted, and Mr. Light called as a witness under the circumstances disclosed in the letter, the Court would tell him, however depraved and abandoned he might be, that he should not do his client so foul a wrong—that his secrecy was his client's privelege, not his. The Court would say "if you are even willing to extinguish your own character in kindling the flame, you shall not make such a sacrifice in the temple of the law—you shall not pollute and defile the sacred altar

of Justice by such an impious immolution—your client is a victim indeed, but he is the victim of his confidence in you—you have him bound by it; and if he is to be offered up, you know a shrine at which such an offering will be every way acceptable. But begone, Sir, far be such a profanation from us." This is the language of the law, and therefore, the language which, I hope, he would have heard from this Court. But, I believe, Mr. Brodie has over-charged the picture, when he painted this wretched catiff between himself and his attorney—between the threats of his enemy, and the treachery of his friend.

"We are told, there was a want of direct proof against Sooboo Row—for the letter meant this, if it means any thing—this is too much. The evidence indeed, against Linga Reddy was, that he himself had said, that he gave the bribe to Sooboo Row. But where is Chittoor Kisna Row, who conveyed the bribe? his would have been direct evidence against Sooboo Row; and much more satisfactory it would have been, than that of one man's swearing, to what ye heard another man say. Let us not be told that Chittoor Kisna Row could not be come at. Had the business gone to the Justices, he must and would have been come at. They would have had him before them I am confident, and if they could not, I consider their whole establishment as a nuisance. The only evidence against Linga Reddy was, that of his having given the bribe. It was the only thing by which they attempted to touch him; and they might, I say, have had better against the man to whom the bribe was given, and who, if the story be true at all, must have been by much the most guilty of the two—what follows? either that the assersion of want of evidence against Sooboo Row is wilfully and deliberately false, or else, that they prosecuted a man, by the means of false swearing, whom they must have believed to be innocent. Here is a dilemma, and they may make their election.

"But what had they besides? the evidence of Meer Bawker

—that pillar, that buttress of their cause, who had attracted their sympathy, and enjoyed their favour—who could have sworn, and who, upon the trial of Linga Reddy did swear, that Sooboo Row was by stipulation to have had 6-16 of the pelf—yet, they wanted evidence against him. I am astonished. The prosecutor had evidence against him. He knew it—and he cannot cover such designs with a cloak so shredded as this. He shall not muffle me with such a rag of an assertion.

"But, he "had a particular reason for shewing certain considerations to Sooboo Row, even had the proofs against him been more satisfactory."—My remark upon this shall be short. I believe it—but, when we come to contemplate the use for which this man was reserved, I am sure, it will be thought far enough from mending the prosecutor's case.

"It often happens, gentlemen, that guilty persons are admitted approvers by our law. This prosecutor, is however, I believe, the first who has in that capacity ever assumed the power of admitting approvers at his own discretion. It is always done under some legal authority; and approving, is invariably the voluntary act of the party himself. It is, besides a necessary ingredient that the approver shall acknowledge himself guilty of the crime, and make a full and fair disclosure of all the particulars—you will see by this new system of approving (or as the dignity of the person concerned requites, I should call it, of making *King's* evidence) that it totally abrogates the old law, substituting a new and opposite one in its place. Here we see the prosecutor himself without any authority, but that, which, he has filched from the judicature, not receiving voluntary confessions of guilt, and exempting from prosecution in consequence; but, threatening a man whom he knows to be guilty, if he does not, contrary to his will, bring charges against others—setting forward another who is stated to be guilty, but who swears himself guiltless—taking him back again, perjured, and protected—and, as if perjury and absolu-

tion were concomitants. He is a second time perjured—a second time indemnified—such is the practice under our new legislation—the practice under the paramount authority of the legislator himself.

" Observe now the state in which that criminal Sooboo Row had been kept for two years: I reckon it at that period, for the letter acknowledges a communication to have been opened between him and the writer of it, since before the first verdicts went home recommended to his Majesty—Observe the description of the letter writer—I cannot equal it—nor, do I believe that he could have intentionally done it half so well—you see how this wretch fluctuated, not moved by justice, but by the tide of prosecution, as it ran prosperous or adverse. Before these verdicts went home, he floated forward. He was then drifted back again—nothing can be more strongly depicted than his shiftings of his resolution, and the oscillations of his mind; but, ever since he held out the hopes of discovering some prey, and sufficient it seems to keep the fangs of this ravener off himself. How could he have acted otherwise, if he had not done worse? Here is a man put to the question—suffering under torture—which, banished from other lands, is to find a refuge amongst us. I say Torture—that which no man who ever breathed the air of the country we came from, could hear of without horror and detestation. There is a mental, as well as a bodily rack.—A torture to the mind!—A vulture to the heart! —Might not the famous problem of the Marquis of Becceria, to whom humanity owes so much, be applied with a slight alteration to this case? " The strength of a man's mind, and the purity of his principles being given, it is required to find a certain degree of terror, sufficient to make him charge an innocent person with a given crime."—Here was the experiment.—Thanks be to God it did not succeed. But we never could have been put into such jeopardy, under the beneficient system of our laws. Think then, of the frightful dangers we have es-

caped. Think of the dreadful operations which might have been directed against any of us. Think that for two years, guilt, and fear, out of the reach of human sight, were aggregating together the elements of accusation, and that no man could be aware of their collection, or their fall, untill rolled in darkness, they might have burst on some devoted head. When we think, that this malversator was to be favoured in proportion to the mischief he might produce, we must contemplate our deliverance in awful astonishment, and wonder at the escape of any thing worthy or honourable among us. It is not to be ascribed to human agency, or to ordinary good fortune. We own it to the special interposition of the Almighty.

" Do you not believe, that a man under such circumstances, could be brought to accuse you in a body, of the most infamous crime, that the most infamous prosecutor might invent?—You do—I know you do.—What then, are all their bonds, and their bona fides, and their claims, and their creditors, and their Dufters, and their Durbars, and all their purling jargon to this? Are we to let in such a torrent, such a deluge of corruption among us, because some of the spoils of Chepauk may float upon the surface?—are we to suffer the harmony of our laws to be thus cast in dissonancy and discord?—are we to allow the palladium, the tower of our strength, which our ancestors have defended against the open artillery of hosts, to be gnawed into, and undermined by such vermin as these? No—'s your answer, for you feel it as I do.—And after all, this man had the face to expect a compliment from a Grand Jury. I wonder he did not include Meer Bawker, and Sooboo Row, in the expectation. " He would be fully satisfied with any ASSURANCE, that the Grand Jury might think proper to express." Truly, as to assurance, I should have thought he had enough of his own. It was too much to expect, that a Grand Inquest of British Gentlemen, should become parties to each, aggressions against themselves, and against their country, too much to expect, that

they should have turned rebels against justice and traitors to our laws—too much to expect, that they should have "slavish temperance enough to bear an ill office done them to their face, and thank the man that wronged them, for his favour."

"But, they prosecute for the "Fund" as if there was a magic in the word, at the sound of which, every thing dear and valuable to us, was to vanish like a vision. Let them prosecute for their fund—but let them prosecute for their fund, as they would prosecute for any thing else. We have not one law for their fund and another for ordinary occasions—we have but one law, which is, not the law of these prosecutors; and, when they attempt to make the creditors parties to their proceedings, I consider it as a libel and a slander—as defamation and aspersion, I know many of the creditors, and I thank God I do not know one who would not, as I believe, spurn at the bare idea of having the fund increased by such means as have been practiced.

"I have now not much more to say, for I expect to have another opportunity of addressing you upon this subject before the end of the sessions. There is one event however, which I cannot pass unnoticed. In the course of this address, I informed you, that six men had been indicted at the last sessions by this prosecutor, according to his own course of proceeding—that is, by his having procured a finding of the bills of indictment by the Grand Jury, without the intervention of any authority whatsoever, but his own. By this mode, he has had (which by any other, he could not possibly have had) the parties ever since at his own discretion, and what shall I tell you—four men out of the six, certainly in consequence of a communication with the prosecutor, the nature of it, is left to conjecture, have ccme forward to the commissioners, and sworn, that all their former swearing before them, and before this Court, was false—aye—they have sworn to their *own perjury*. This I tell you, was in consequence of a communication with Mr. Brodie, with the

prosecutor, with the man by whom they had been indicted, with him who had his curb in their mouths, with him who held them in his own hand. I'll tell you more, one of them, Narrian Row, after having sworn that he was foresworn, which might, I think, have contented the most insatiable tyranny—Narrain Row, in the presence of Mr. Brodie, (as the other three did likewise) swore to what I have told you. But this Narrain Row, further swore, that the cause of his heaping this infamy upon his own head was, a promise of pardon and protection which he had had from Mr. Brodie. In his answer to questions propounded by Mr. Brodie himself, he persisted. I would not assert what I am going to state on the credit of my own veracity, for I know it will stagger your faith—you shall have the depositions—you shall there see, that Mr. Brodie upon his oath, cannot deny an indirect conveyance of his sentiments to this fellow, after he had retired from the commissioners, covered as he was with the turpitude which he had spread over himself. You will there see, that this abject slave, was brought forward the very next day, to run the heel of his swearing the day before—and then, deposed upon oath, that he had not received any such promise from Mr. Brodie at all. Here is mental thraldom. Here is the depth of human degradation. Mighty and merciful God! is this to be endured? was the like of it ever heard of before, where religion, where civilization, or where mankind was known to inhabit? don't trust me, I beg of you—it would be too much to ask—but you shall have the depositions, and be able to judge for yourselves.

"I applied for them to the commissioners, in order that I might, as my duty required, get every possible insight into these atrocious proceedings—yes, nauseated and sickened as I was—foul and filthy as I found this sink of corruption, I resolved to get to the bottom of it—I have not said one half of what has occurred to me, for I found those villanies rising and swarming about me, that I more considered how I should work my way through them, than any thing else.

"You may draw your own conclusions from the depositions, if you please to have them. To my mind, the proof is evident, irresistable, insuperable—I don't say this prosecutor is guilty, because it is incredible; but, because it is impossible that he should be otherwise. I do not believe it possible, that these four men, uninfluenced by hope or fear, could have done as they have done. It is not in the nature of things, that they should have been volunteers in swearing to their own crimes; but, when I reflect, that they were under prosecution, and in the hands of the prosecutor; when it is *admitted*, that some communication took place between them and the prosecutor, it is to me distinct and palpable. I am unable to doubt. It is a case in which scepticism would stand decided. No asseveration—no swearing—no proof could move me—Any thing of the sort, I should consider as the glimmering of the midnight insect, in comparison with the shining of the noon day sun—

"I fear I have exhausted your patience, and I shall now conclude, for I hope, as I have already said, to have another opportunity of addressing you upon this subject, before the conclusion of these sessions. The occasion I expect, is, that of a bill of indictment to be preferred against Mr. John Batley—I never saw him, I know not whether he is guilty or innocent; and, I had almost said—nor do I care—but be he innocent, or be he guilty, he shall have the benefit of the law. I never felt so anxious for the prosecution of any man; for if he be guilty, the Court was in error in recommending him to mercy; and this, like every other Court, will be glad of an opportunity to rectify its error—but his prosecution shall not be procrastinated. He shall not be at the mercy of the merciless. I know I speak the language of a constitutional lawyer, when I say—this shall not be. His enemies have no right to keep him for an indefinite and unnecessary length of time under the anguish and the agony of their accusations. By the great charter it is declared, that justice shall neither be denied nor delayed.

A REPLY, &c. &c.

To the Honourable Sir FRANCIS MACNAGHTEN, Knight, one of His Majesty's Judges of the Supreme Court of Judicature at Madras:

SIR,

TWELVE months have now elapsed since the publication of a paper in the Madras Government Gazette, which purported to be a charge delivered by you, as one of His Majesty's Judges of Oyer and Terminer in the Supreme Court of Judicature, to the Grand Inquest of Madras, and which was stated to have been published by you at the request of the Grand Jury. In that publication you are represented to have animadverted in severe language on misconduct imputed to me, in respect of certain criminal

prosecutions, which I had been instrumental in instituting, against different persons charged with being concerned in forging Bonds of the late Nabobs of the Carnatic; and to have commented, with much warmth, on a letter which I was induced to write to a former Grand Jury.

When the charge alluded to was published, I took immediate means to discover, that it had been sent to the Press by your directions; and by repeated perusals of it, I was enabled to ascertain the nature and extent of the crimes which it imputed to me, and which the vague and perhaps exaggerated reports of it, which had previously reached me, did not enable me to comprehend.

When I had reflected with all the calmness that I could command on these serious charges against my character, and had contemplated the high, and almost sacred situation whence these imputations had proceeded, I was led to suppose that some malicious persons, by false representations of my motives and conduct, had persuaded you, Sir, that I was the character you had described; for, I was quite convinced, that if you had not received unfavourable impressions against me by the artful insinuations of the many powerful and active enemies who had suffered by "the verdicts" in the Supreme Court, to which

you have emphatically alluded, such impressions could only have been resisted by a strength of mind superior to the infirmity of our common nature.

While I was thus willing to believe that you had been imposed upon, although the consciousness of my own innocence supported me under the pressure of your accusations, yet it did not admit of my remaining quiescent; but naturally prompted me to seek an early and public occasion of justifying myself against charges, which described me, as utterly unworthy of that situation in society, to which, by my birth and my conduct through life, I have been heretofore considered entitled; and, unversed as I was in the refinements of law, it occurred to my mind, that as you had published to the world accusations against my character, which, if true, were calculated to deprive me of the public trust and confidence, I should have no difficulty in submitting my conduct to judicial investigation, by which, as I trusted, you would be convinced that I had been most undeservedly censured.

But, when I consulted with others, as to the best course that could be taken to establish my innocence, I found that I had only a choice of difficulties; and that the character with which you are cloathed, was not only calculated to give unusual

effect to whatever opinions you might utter, but that the law had provided no jurisdiction in India, by which the truth of your invective against me could be questioned. At one time, I had, indeed, been recommended to prosecute the printer of the newspaper, but I was afterwards assured that such a proceeding would not afford me the occasion I desired, inasmuch as proof by the Defendant that the publication was a correct report of your charge, would be a legal justification to such an action; and it was far from my wish to subject any individual to the unpleasant consequences of a prosecution, who, I was aware, could not be actuated by malice or ill-will towards me, but who, from his situation, was bound to give publicity to such a paper, when sanctioned, as no doubt it was, by the approval of the Government.

When I remind you, Sir, of a circumstance that is already within your knowledge, namely, of the difficulty that I experienced in prevailing upon any Attorney in the Supreme Court, to *lay a Case before Counsel, for an opinion* as to the measures that should be adopted towards the justification of my character; my object is not to blame the profession, but to show the obstacles that have hitherto been interposed to prevent an explanation of my conduct. Most of the Attor-

nies of the Supreme Court were so connected by their official situations with the Judges of that Court, and one of them was, as I understood, under such personal obligations to yourself, that I could scarcely expect that any of them would have willingly undertaken a task so painful and ungracious. From the Gentleman who fills the situation of Clerk of the Crown, and by whose insinuations you have been partly influenced in pronouncing on my conduct, I could not ask for assistance. The others all of them declined in writing, and Mr. Light (who had previously acted as my Solicitor,) for reasons that I will not mention, but which you may perhaps ascertain, declared, without hesitation, that he was *afraid* to lay my case before counsel.

These circumstances, as you may have been informed, compelled me, on two different occasions, to address myself to Sir Thos. Strange the Chief Justice, the first of which produced an intimation to the profession that they ought not to hesitate in discharging their duty; upon the strength of which having again applied to Mr. Light, I received from him the following answer: —"Under the present circumstances I cannot "act for you in the business you mention, unless "I am positively directed to do so by Sir Thomas Strange;" which refusal having been inti-

mated by me to the Chief Justice, Mr. Light was then requested to act for me.

While these difficulties were raised at Madras, and from an apprehension that the circulation of your charge might prejudice the public mind against me at the other seats of Government in India, I wrote to my friends at the different presidencies, a fair explanation of my conduct in those respects, which had unhappily fallen under your animadversion, and I requested their best advice, as to the measures that could be adopted for removing the unfavourable impressions which you had received, and which possibly might have been conveyed to others.--By these letters I trust that I have caused the general opinion to remain at least suspended, until an impartial exposition of the circumstances shall have placed my conduct in its proper light.

The delay consequential to these communications with my friends, and the correspondence which was indispensable towards the right understanding of the multifarious subjects of your charge, and an anxious desire to collect the best opinions, as to the course that I should pursue, will account for the long interval of time that has elapsed; and, as I hope to convince even you, Sir, that want of confidence in my cause did not prevent an earlier defence of my conduct, it may

perhaps be fortunate, that I have allowed a sufficient period to intervene for calming my mind into a tone and temper requisite for the unclouded exercise of my reason; for, whatever might have been the suggestions of the moment, when smarting under the immediate effect of your calumny; I trust that I have now reduced my feelings to a mild and proper temperature: and I can sincerely assure you, Sir, that in thus submitting to you, in the *first* instance, an honest and just explanation of my conduct, in preference to any other course that might have been pursued, I am at once following the advice of my friends, and the sincere bent of my own inclination.

In offering an explanation of my conduct, I shall endeavour, as far as may be practicable, to pursue the order in which I have been accused: for by such a course, my defence may be better applied to the different heads of criminality imputed to me.

The first objection you have urged against my conduct, would seem to have reference to a practice which prevailed in the Supreme Court, of sending Bills of Indictment before Grand Juries, in cases where no previous complaint had been laid before the Justices of the Peace, so as to enable the Magistrate to take informations, which might afterwards be submitted to the Court, and

eventually to the Grand Juries, and in allusion to this practice, you have been pleased to say, that *in certain cases* (which by the context of your charge must have allusion to cases in which I was one of the Prosecutors) the King's name had been used without any authority; that the form of sending the Indictments through the Court, or the Clerk of the Crown, had not been used; but that the Indictments had been clandestinely carried before the Grand Jury, and that the Prosecutors alluded to, had *surreptitiously, by what particular means they best knew*, procured the finding of several Bills.

In a subsequent part of your charge, you have been pleased to state that, " some of the abuses " to which you called the attention of the Jury, " you discovered by accident, and that you were " persuaded, that you were not more surprised " and shocked by the discovery, than every gen- " tleman who was on the Grand Juries, which " were *deceived* into the finding of Bills under " such circumstances would be, when he heard of " the frauds and the consequences by which he " was trepanned into an act totally subversive of " Justice and of our common rights." That, having desired the Clerk of the Crown to send you the several Indictments which had been laid before the Grand Juries, on the subject of Nabob's

Bonds, you saw among them several without informations; that you supposed it owing to a neglect of his, and enquired for them; when, to your utter astonishment, you were informed that none had been taken; that you asked if the Indictments had gone into the Grand Jury through him, and that he said, they had not.

You then state, that although the communication from the Clerk of the Crown had inrceased your suspicions, it was not until after much enquiry and consideration, that you imputed *guilt* to any person; but that the proofs so multiplied and thickened about you, as to exclude all hesitation; and that you afterwards were led to conclude that the abuse alluded to, had been contrived for the purpose of carrying into action, certain malversations, which you had also discovered.

You next observed, that there was no good motive by which the Prosecutors could have been actuated, in taking the course which they took: that by the *new-invented* mode of proceeding, there were not any informations taken, or recognizances entered into; that from the want of informations, the party accused was deprived of a great benefit, by not being able to come at the Prosecutor, if the charge should be groundless. That a man falsly sworn against had some satisfaction in being able to prosecute him who

swore falsly, for Perjury, and that it was of great consequence to the public, that he should be enabled to carry on such a Prosecution; that it would also be some consolation to a man in such a situation, to be enabled to shew to the world, his defiance of the charge, which he might do when standing to take his trial, by having his accusers called upon their recognizances to appear against him, but that even of this, by the ingenious contrivance in question, he was totally deprived.

You then observe, Sir, that such a proceeding as you had condemned, had been resorted to, because, it left the whole of the process in the hands of the Prosecutor, entirely at his own disposal, and himself totally unrestrained in the use of it; that the Grand Jury would accordingly see that the Prosecutor (whom you afterwards described to be myself,) had engrossed in his own person, every office pertaining to justice, from the catch-pole to the king inclusive; from the power of apprehension, to the power of pardon. That the office of Justice of the Peace did not indeed fall within the scope of his scheme, but that this, as he had not chosen to usurp, he had entirely abolished.

In another part of the charge, referring to the abuse respecting the mode of preferring crimi-

nal accusations, you observe that, the only thing that could at all excuse the Prosecutors for taking the business out of the ordinary course, would have been the certainty of being able of himself to bring the offenders to Justice, but when he transgressed every rule of proceeding, and so conducted himself in his transgressions, you would believe that he did it *for the purpose of iniquity*. That by the *new-invented* mode of proceeding, the Judge was shut out of every opportunity of making observations to the Grand Jury on the cases which were to come before them, or of giving them his opinion on points of Law; and that the Prisoner had a right to the use of the informations against him, that he might, as it were, confront the witness with himself.

Having supposed the case of a man falsely accused, you describe in swelling diction, the miserable condition of such a person, compelled to bear the stigma and disgrace of an unjust accusation, without the means of obtaining redress; and after portraying the ineffectual efforts of the injured but innocent sufferer, to obtain the means of establishing his innocence, you exclaim, "Here there is a solecism in British Jurispru-
"dence! Here is a living contradiction to all the
"boasted equity of our laws! Here is a man in a

"British Court of Justice, suffering from the "abuse of British Laws, and by that abuse alone "suffering the most grievous of wrongs without "the possibility of a remedy. Here is a monster! "a non-descript, or if I may so term it, a lusus "legis, created for our aversion and abhorrence, "a thing which never could have had a being if "it had not been engendered by a forced and "unnatural conjunction between miscreancy and "law!"

I have now, I believe, extracted the principal parts of your charge, which refer to the irregular practice of laying Indictments before Grand Juries, the substance of which may be thus stated:—That instead of the regular and legal course of preferring accusations of a criminal nature by Informations before Justices, and by sending the Indictments to Grand Juries through the Court to the Clerk of the Crown, an *irregular* and *unlawful* mode of proceeding had been *invented*, whereby Bills of Indictment were clandestinely taken before Grand Juries; surreptitiously procured to be found, and Grand Juries thereby trapanned into acts totally subversive of Justice, and of our common rights; and that this irregular and unlawful mode of proceeding had been contrived or invented by *myself*, for the inequitious purpose of bringing certain malversations

into action. These charges, Sir, are as general in their description, as they are serious in their nature, and, therefore, I shall have much difficulty in shaping any concise or specific answer to your declamation. But with your indulgence, I shall proceed to remark on the first part of it.

After a most particular enquiry among gentlemen, who for many years past have been conversant with the administration of Criminal Justice at Madras, I have not been enabled to learn, that it *was* the usual or regular course of preferring accusations for Misdemeanors to lodge Information before the Sitting Magistrates; but that on the contrary, as I have been assured, in all crimes less than felony, and where a Solicitor was employed, it was considered a matter of discretion with him, either to prefer the complaint before the Magistrates, or to prepare the Indictment and send it in the *first* instance with the witnesses before the Grand Jury. I have also been assured, by persons who have undertaken to speak of the practice in London, that it is not usual or requisite to prefer complaints before sitting Magistrates in cases of Misdemeanor, when there is no apprehension that the party accused will abscond before the commencement of the session. Of this, also, you have ample means of being correctly informed,

Now, Sir, if my statement be true, it will follow, either that the law has not prescribed any particular mode of proceeding, or that the practice at least at Madras has varied from the rule. If the law has been silent, the practice will be considered as consonant with the opinion of those who have administered the law, or the practice would not have been permitted: but if not, and if the practice has been irregular, the blame would seem to be imputable to those who have permitted in practice a relaxation of the law. Unless it shall appear that prosecutions for Misdemeanors according to the rule or practice of the Supreme Court were invariably commenced in the manner which (as you state) would have been legal and regular, and that in all such cases, informations were lodged with the Justices of the Peace, in order to be transmitted through the Clerk of the Crown to the Court, for the purposes you mention, the consequences of the contrary practice cannot, with justice, be ascribed to those who have merely pursued the track in which others have been permitted to walk with impunity.

I have already stated what has been the result of my enquiry from Gentlemen of the Profession, respecting the general practice, and I have also been assured that there has been no rule of the Court specifically to govern the practice. A-

mong the Indictments on the subject of Nabob's Bonds which were delivered to you by the Clerk of the Crown, and which were without informations, one or more will be found which were prepared by Mr. Robert Orme, Solicitor to the Honourable Company, at the instance of the Carnatic Commissioners, which were sent to the Grand Jury, precisely in the same manner with those Indictments which have unfortunately subjected me to your accusations. If you are not already apprised of the fact, you can call on Mr. Orme to state, whether in each of the instances in which he conducted Prosecutions for the Commissioners, informations were taken through him by the Justices? Whether such informations were in all or even the greater part of the cases submitted through the Clerk of the Crown to the Court, to enable the Judge to make observations to the Grand Jury? Whether recognizances were always entered into by the Prosecutors? Whether the Parties accused had any opportunities of confronting the witnesses with themselves? Whether, in short, all these forms were not dispensed with in the Indictment preferred by Mr. Orme* against Visvasso Ven-

* Visvasso Vencata Ramiah was the principal evidence produced before the Commissioners to prove that Barrett Anunda

cata Ramiah, in the Sessions held in January 1809? Whether the same practice was not followed by him in the July Sessions of last year, with respect to several other Indictments at the instance of the Carnatic Commissioners? And whether the Prosecutors in all the Indictments preferred by Mr. Orme, did not engross the several offices you have described, from the power of apprehension to the power of pardon? Whether each of the Indictments in which *my name* appears as the Prosecutor, and to which you have alluded, as having been clandestinely carried before the Grand Jury, was not taken to the Grand Jury in the same manner as the Indictment prepared by Mr. Orme? Whether Informations were not actually taken at the Justice's Office, in the Prosecution against Goorvapah Chitty and Napatty Kishen-Row, early in the month of October 1809, and sworn to by myself and Ram-Row? And whether Mr. Orme can state any

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Row, was employed under him at Chellumbrum, at the time when he was represented to have written the Bond in favour of Gopaul Row, at Madras, as a durbar servant, for which Vissvasso Vencata Ramiah was indicted for Perjury at the instance of the Commissioners; and, although he was then known to be confined for debt by the Zilla Judge at Chingleput, and has for a long time back been confined for the same cause in the jail here, he has never been brought to trial.

material distinction between the practice followed by him, in the instances alluded to, and that, which you, Sir, have imputed to me, in language so gross and indecent.

I have requested you to call on Mr. Orme, to answer these queries; and, I venture to assure you, that you will find on enquiry, that the Indictment against Visvasoo Vencata Ramiah, (which I have just-mentioned, and which was prefered immediately after the first discussions respecting forgeries of Nabob's Bonds, long before any Prosecution was instituted at my instance,) as well as several others in the July Sessions of last year, were laid before the Grand Jury in the manner that I have sugested. I do not mention these circumstances with a view to throw the blame on Mr. Orme; but, for the purpose of shewing, that the practice of the Supreme Court has been as I have described it. Mr. Orme has practiced, I believe, as a Solicitor in the Supreme Court from the time of its establishment; has been considered correct in the line which he has followed; has for many years been Solicitor to the East India Company at this Presidency; has been nearly two years in the respectable and confidential situation of Clerk of the Crown, and in the Prosecutions alluded to, had the benefit and assistance of the experience of the Company's Advocate General.

Hence it may be concluded, that Mr. Orme would not have acted in the manner that I have stated, unless he had been justified by the practice of the Supreme Court.

I shall, therefore, venture to assume, that the practice of the Supreme Court, was, as I have stated it, and it will then remain with me, to shew the precise manner in which the Bills of Indictment preferred by myself and others, found their way to the Grand Jury. In making this statement, I rely entirely on the information of my Solicitor, whose exclusive duty it was to direct and manage all official details, in which I never presumed to interfere.

When the Bills of Indictment had been drawn and settled by Counsel, they were delivered in open Court to the Clerk of the Crown, or to his Deputy, indorsed: "The King on the Prosecu-"tion of William Douglas Brodie and others, "Creditors of the late Nabobs of the Carnatic," against the particular defendants. The names of the witnesses intended to be sent before the Grand Jury, were also marked on the back of the Bills. When the Clerk of the Crown thought fit to send in an Indictment, he caused the witnesses to appear; they were called and sworn before the Court to give evidence as to the particular Bill. After each witness was sworn, the Clerk

of the Crown marked the same on the Indictment, and then, either delivered it to a Member of the Grand Jury in Court, or sent it to the Grand Jury room by the Bailiff appointed for that purpose. The witnesses were required to attend, and the Bills found or rejected by the Grand Jury. This, Sir, was, I understand, the practice in each of the Indictments either with or without Informations which was preferred by myself; and, I am wholly at a loss to comprehend, how the Clerk of the Crown could *bring himself to state to you that these indictments had not gone in through him to the Grand Jury.*

If, Sir, you shall be pleased to put the matter into any course of judicial enquiry, I hereby pledge myself to prove, that each Bill of Indictment, in which my name is inserted as a Prosecutor, was delivered as I have stated, to the Clerk of the Crown, or to his Deputy; that the witnesses were, on every occasion, sworn in open Court; and, that each Indictment was afterwards delivered, or sent in the manner that I have stated, to the Grand Jury. These facts, have since been admitted by Mr. Orme the Clerk of the Crown, in a letter addressed by him to Mr. John Read, the Foreman of the Grand Jury, which had found some of the Bills in question, and which letter I here insert; as, I

understand, that it now forms a Record of the Supreme Court.

SIR—I am sorry to understand, through a communication from Sir Francis Macnaghten, that you and other members of the Grand Jury of the Sessions in October last, have considered that blame might be supposed to attach to you from a part of the charge of the Judge at the last Sessions, in which he stated upon the authority of my information, that certain bills of Indictment had been sent into you without having passed through the Clerk of the Crown. Upon being interrogated, I had stated that circumstance to the Judge, without any intention or right to blame any one for the practice, *being an irregularity which I had formerly myself practiced in conducting another indictment, and which, if I had seen the impropriety of it, I ought afterwards, as Clerk of the Crown, to have noticed to the Judges.* In the Grand Jury there could be no fault in receiving the bills as they were brought to you in the regular course by the Grand Jury Bailiff immediately after the witnesses had been sworn upon them, and with my mark and that of my deputy, to shew that the witnesses had been sworn. But those Bills had never gone through my office, nor been seen by me, except at the time the witnesses were sworn, when the Indorsements only were read for the purpose of administring the oaths to the witnesses. From the charge of the Judge you will see that the regular course for Bills to pass through my office, would bring them and the informations on which they are founded into my hands, for the purpose of being submitted to the judges. In stating that the prosecutions referred to by the Judge did not pass through the Clerk of the Crown, I certainly did not refer to, nor had in my contemplation the mere form of the delivery to the Grand Jury, nor meant to imply that that form had been departed from, *although it would have been better if I had*

made the communication in such terms as would have excluded the possibility of that interpretation, which I certainly would have done, if I had adverted to it, and I am concerned to find that, by omitting to do so, I have, for a moment, been the occasion of any unpleasant feeling in the minds of the gentlemen of the Grand Jury. I shall make known to the Judge the substance of this communication, and I have to request that you will shew this letter to the other gentlemen, who composed the Grand Jury, of which you were the foreman.

I am, Sir, your very obedient servant,

(Signed) RT. ORME,

Fort St. George, 4th Feb. 1811. Clerk of the Crown.

To John Read, Esq. &c. &c. &c.

I trust, that I have now convinced you, and every one into whose hands this letter may fall, that the practice of the Supreme Court was not as you have supposed; and that in fact, the Bills of Indictment in question, were not *clandestinely* carried before the Grand Jury. But, Sir, although I have hitherto defended myself, as if I were responsible for any violation of the practice of the Court, you must have been aware that I was not bound to offer any such justification. When it became necessary to institute prosecutions in consequence of the discovery of numerous forgeries, which were calculated to injure a fund in which myself and others with whom I was connected, were deeply interested, I was of course induced

to seek the advice and assistance of professional Gentlemen. In many of the prosecutions respecting forgeries of Nabob's Bonds, I have taken an active part. My real motives are best known to those whose good opinion I am most anxious to preserve; and you would but little thank me for any detailed exposition on this subject. Suffice it then to say, that as a Creditor to a large amount of the late Nabobs, interested for my own Creditors and for others whom I was authorized to represent both in this Country and in Europe, I was anxious that the fund out of which we were partly to be paid, should not be lessened by the incorporation of fraudulent claims; for these reasons, as an* officer connected with the commission here established, and as a member of society, I considered it to be my duty to bring to justice, as an example to others, some of those persons who had been instrumental in fabricating Bonds, or who were wicked enough to support them.

I consulted with the Gentlemen of the profession at Madras, practising in the Supreme Court. An individual is naturally led to believe, that the Barristers and Attornies admitted into that Court, are fully competent to advise him on

* Mr. Brodie is registrar of the Carnatic debts at Madras.

the particular subject in question. Under this impression, I applied to Mr. Light, a Solicitor, and from time to time laid before him the information which I had received or discovered, with a view, that he, or such Counsel as he might recommend, should advise me as to the propriety of instituting prosecutions against particular persons. By the advice of Mr. Light and the Counsel retained by him, several prosecutions were commenced in the Supreme Court, but with the manner of instituting the Prosecutions, with the practice of the Supreme Court, with the mode of preparing the Indictments, or of sending them before the Grand Jury, I was wholly unacquainted.

When it was determined that a prosecution should be commenced, or in other words, that the evidence was considered sufficient to maintain an Indictment, the means of conducting the prosecution to its legitimate end, were matters with which I did not concern myself. I took it for granted, that my Solicitor understood his business; and that if he had any doubts, he would take measures to remove it. I did not consider myself called upon to enquire whether a complaint should be lodged before a Magistrate, or an Indictment laid before a Grand Jury. I delivered myself, as it were, into the hands of

those who were retained to advise me, and certainly never dreamt that if they mistook the practice of their profession, the punishment of their mistake would be vindictively visited on their client.

If, Sir, you will be pleased to call upon Mr. Light, who acted as my Solicitor in all the prosecutions, to explain, whether my conduct has or has not been as I have described; he must state to you, that I have not in any respect interfered with him in the mode of conducting the several criminal proceedings that have been instituted; that I have not, in any instance, attempted to controul or direct him; but, that I have implicitly followed his advice; and that, I was not in any respect, aware that the practice of the Court had been violated.

Indeed, I am persuaded, that you yourself, Sir, long before this time must have been convinced, that, if I had *contrived* or *invented* this new mode of proceeding, in order to carry into effect improper intentions, I could not have done so, without the co-operation both of my Solicitor and the Clerk of the Crown; and, as these Gentlemen are still permitted to practice in the Supreme Court, the fullest proof is afforded to the world, that they have not participated in guilt, which, from the nature of the thing, must have been common to all.

If, however, you shall still be of opinion, that the practice of sending Indictments before the Grand Jury, in cases where no Informations had been taken before Justices of the Peace, was irregular and unlawful, I am certain that you will now be disposed to hold me blameless. I was not bound to know the practice of the Court, and did not conduct or interfere in any shape with the proceedings which violated the practice. It was the duty of my Solicitor, to have pursued the mode prescribed by the Law; and, if he was ignorant, the Clerk of the Crown should have informed him of his duty; if they were both ignorant of the rule of proceeding, which you have stated to obtain in *Ireland*, and which was afterwards introduced by you at Madras; they, as practitioners of the Court, might be blameable for their want of knowledge; but, I humbly submit to you, that I should not have been condemned, because of their negligence or unskilfulness.

It is possible, that the many inconveniences which you have pointed out, may be the consequence of allowing Indictments to be received, where Informations are not previously taken; but these consequences, are either imputable to the parties who have introduced the practice, or to the authorities by whom the practice has been

tolerated. I have shewn, that if this mode of proceeding has been continued for the purpose of bringing malversation into action, the disgrace of the *invention* cannot be charged on me; and if the mere proceeding is to be taken as evidence of *iniquitous* motives, I trust, that I shall be excused for saying, that the Company's Law Officers, who conducted the Prosecutions before alluded to, are entitled to an equal share at least of the censure which has been bestowed on me; nay, in strict justice they deserve, exclusively, the abuse of which I have been the object. For they have held out a false beacon to mislead those who are willing to pursue the proper path; and if punishment must be inflicted for any aberrations, it should surely be applied to the men who have wilfully occasioned the deviation, rather than those who have innocently or ignorantly deviated.

One of the inconveniences, however, which you have alluded to, as a consequence of the neglect to exhibit Informations before a Justice of the Peace, is not likely to arise here, unless the Supreme Court shall adopt the practice in *Ireland*, instead of that which I understand prevails in *England*. The opinion, Sir, which you state to have been entertained by Lord Redesdale, is, I am informed, conformable with

the decisions of English Judges. I am assured, that in two instances, one in Surrey, and the other in Essex, the Informations in writing of witnesses, *were not permitted* to be laid before the Grand Juries; because, the best evidence was the vivâ-voce testimony of the witness himself; and the Grand Jury, could not abandon that, and resort to the secondary kind of evidence, resulting from his written deposition; and, I believe, in one of the cases, the witness, on being produced before the Grand Jury, prevaricated in such a manner, as to induce a strong suspicion that he had been tampered with on the behalf of the Prisoner, to vary from his former deposition; that the Grand Jury, therefore, applied to the Court for the deposition taken before the Magistrate, *which was refused.* This was a very strong case, and I understand that you will find it under the head of Denby's case, in a Law Book called Leach's Cases in Crown* Law, and which is said to contain numerous points that have been adjudicated by the Twelve Judges of England. All this, however, as a person ignorant

* The Grand Jury ought never to be assisted by the depositions taken before a Magistrate; except where those depositions could be read in evidence to the Petty Jury.

Denby's Case, Leach, 580.

of law, I am bound to submit to your superior judgment, and to that learning, which your judicial situation, if it does not impart, at least, supposes. A case not less in point on this subject, occurred during the October Sessions of last year at this Presidency; and when you were upon the Bench; in which the Grand Jury, having for some particular purpose, applied to the Court for the Informations taken before the Magistrate, they were properly *refused* by the Chief Justice, as not being considered the best evidence they could obtain.

I sincerely trust, that I have now satisfied every honourable mind, that there was not any regular course or practice of preferring accusations at Madras by going in the first instance, before the sitting Magistrate; that, on the contrary, the practice varied; and that a course similar to that followed by my Solicitor, had been previously taken by the Company's Solicitor, who is now the Clerk of the Crown; that the representations of that Officer, as to the manner in which the Indictments were carried to the Grand Jury, are wholly *incorrect and false;* that in any event, I was not privy to, or aware of any irregularity, having relied entirely on my professional advisers; and that, therefore, the novelty of the proceeding, and all the consequences of it, are char-

geable to those who are still permitted to practice in the Supreme Court of Judicature.

The next part of your charge, Sir, relates to the Indictment of Linga Reddy, Napatty Kishen Row, and Manar Kistnama Chitty, against whom a Bill was found for a Conspiracy to cheat, by means of a forged Bond, purporting to have been granted by the late Nabob Wallajah, to one Chocapah Chitty in his life time. Adverting to this prosecution, you state, that Linga Reddy was the only man *I had thought fit to bring to trial. Napatty Kishen Row, although a great criminal, was not apprehended, and that Manar Kistnama Chitty indeed, I could not be expected to apprehend or to bring to trial, inasmuch as he never had any existence*. You then proceeded to observe, that although Linga Reddy was tried before you, and although you had attended to all the evidence, you were at that moment unable to say, for what he was brought to the bar, under colour of Justice, if it be not just that a *man should answer as a criminal, because he had been born a fool.* That the only thing imputed to him was, that he gave 600 Pagodas to Sooboo Row for making false entries, and furnishing false evidence in the Dufters to support a forged Bond; but, that it was not proved that he was to derive any benefit from the fraud; on the contrary, that he was ex-

pressly cut out of any share in the distribution of the spoil.

It would not be proper or decent to canvass the justness of your opinion, with respect to the evidence which was produced in support of the Indictment against Linga Reddy. An *impartial* Judge presiding at the trial, you must have been better able to form a correct judgment of the case than any other person present; and I have no doubt, but that Linga Reddy did appear to you, as you have represented him in the charge. But, to myself, and to those who were consulted respecting the prosecution, the conduct of Linga Reddy appeared to have been most highly criminal. That the bond described in the Indictment was a forgery, is not doubted by any person. The Commissioners for investigating these claims, will explain to you, that to this day no attempt has been made to establish its validity. This instrument, in common with many others, appears to have been fabricated by a gang of persons in Triplicane, who carried on a regular system of fraud. Seals in imitation of those of the late Nabobs, and of their principal Officers and others, had been made; and persons well versed in imitating the usual marks and hand writing of the Nabobs, and of their confidential servants, were engaged in these most iniquitous

proceedings. The mere instruments, however, were of no value, and were not calculated for sale in the market, until registered in the Dufters or Records of the Durbar, in which the late Nabobs were accustomed to enter genuine Bonds, and to which purchasers would probably resort for information, when the fabricated instruments should be offered for sale. Hence, the persons who for many years had been intrusted with the charge of these Records were tampered with, and at last corrupted, to make false entries of forged Bonds, corresponding in point of time, and in other matters, with the fabricated instruments. That there have been innumerable forgeries, and that many of them have been recorded in the Dufters, in the manner I have just stated, are facts which have been so well established in evidence, that no doubt can, I presume, remain on the subject.

Much of the information which I received on this important subject, and particularly what related to the Bond in the name of Chocapah Chitty, and many other forgeries, was certainly either derived from, or obtained through the means of Meer Baker Saib, who was the principal witness in support of the Indictment, against Linga Reddy. This man was unquestionably privy to the forgery of the seal, and to the distribution of the

papers which received its impression among the different persons who afterwards filled up the several false instruments. That he knew the iniquitous nature of these transactions, he admitted in his evidence. That he appeared to countenance and take a part in the business, he also acknowledged; but he denied, on his oath, as he invariably denied to me, that he participated in the criminality with any view to profit by or conceal it. He stated, on his evidence, as you well recollect, and to me he constantly told the same story, that he had associated and laboured with the conspirators for the purpose of ascertaining the nature and extent of their frauds, in order to make a discovery and bring them to Justice. This statement was, in a great measure, confirmed by the testimony of Lieutenant Colonel Munro, an officer, who had long been high in the confidence of the Madras Government, who proved, that about the time when the forgeries were in a course of preparation, Meer Baker Saib, had intimated to him, Colonel Munro, that he was in possession of important information, which he was desirous of communicating, if he were assured of the support of Government, but that no notice was taken of the communication.

Admitting, Sir, for the argument only, that Meer Baker Saib, when he delivered the infor-

mation to me, which he afterwards confirmed by his evidence, was unwilling to develope the whole share that he had had in the transaction, and that he did not present himself for examination in the manner in which an accomplice should appear, who expects credit from a Court or Jury; admitting, also, that he was improperly anxious to appear less criminal and more meritorious than you could be brought to consider him, and that during his cross-examination he did not conduct himself or answer the questions in as correct a manner as might have been expected; yet, it is highly probable that the evidence which he gave was substantially true; that the transactions which he said he had witnessed did not really happen; that the conspiracy which he described was formed and carried into effect. Whether he was present as a criminal participator, or as a spy, with the view to become an informer, did not, I humbly submit, either aggravate or diminish the criminality of the conspirators; and if his evidence was, in other respects, worthy of credit, the explanation which he offered of his own motives and conduct, could not materially affect a question which regarded the motives and conduct of the parties indicted.

Without the evidence of Meer Baker Saib, I was professionally advised that the Indictment

against Linga Reddy and others, could not have been sustained. The information which he communicated to me, with the other evidence, was deemed sufficient to justify the prosecution. From him or from others, I derived no information tending to shew his own criminality. To have included him in the indictment without evidence, would have justly subjected me to your observations, with respect to the prosecution of Linga Reddy; believing as I did the guilt of those who were included in the Indictment, and that there was evidence to establish *their* criminality. I trust that I have now excused myself to you, for having indicted the parties, whom I believed to be guilty; and for having omitted to indict the most material witness, against whom I had not even a shadow of evidence.

Having said thus much of Meer Baker Saib, I must now beg leave to recal to your recollection, that the indictment against Linga Reddy and others, did not depend on the *mere* testimony of the witness to whom I have alluded. He proved the circumstances connected with the original concoction of the fraud; the fabrication and sealing of the pretended bond, and, as I conceive, established primâ-facie, that the bond mentioned in the Indictment was a forgery. It was then proved, (or perhaps I should more correctly say,

attempted to be proved) that the bond was written or filled up by Napatty Kishen Row, one of the defendants in the indictment. It is, I think, to be collected from your charge, that Linga Reddy had given to Sooboo Row, one of the Durbar officers, a sum of money for making false entries in the dufters of the late Nabobs, in order to establish the validity of the bond in question. The bond itself was produced in Court, and with it, to the best of my recollection, a letter of attorney, purporting to be executed by one Manar Kistnama Chitty; describing himself as the son and heir of Chocapah Chitty, the obligee of the bond; and authorising Messrs. Harington and Co. of Madras, Merchants, to recover, for Manar Kistnama Chitty, the amount of the bond; and to this letter of attorney, the name of Linga Reddy was set as a subscribing witness.

Now, Sir, if the bond was forged, if Linga Reddy was proved to have paid, or even offered, money to support it by false entries; and if this same Linga Reddy was present, and assisting in the uttering of the instrument, by attesting it to have been executed by the person claiming to be interested in it, and this, for the purpose of giving effect to the fraud; I should humbly conceive, that he participated in the guilt,

and that the completion or consequences of the crime, did not depend on the proof of the quantum of benefit which Linga Reddy either had received, or expected to derive, from its perpetration or success.

I beg that I may not be understood, to state that these facts were proved to *your* satisfaction on the trial. I submit them for the purpose of satisfying the readers of this letter, that the information which I had received, was sufficient to induce my professional advisers to recommend a prosecution. That the bond was fabricated, I repeat, is generally admitted; and that it has been abandoned, you may learn from Messrs. Harington and Co. or from the Commissioners for investigating the Carnatic claims. That Linga Reddy was instrumental in giving validity to the Bond, you admit to have been established, and that he was a witness to the letter of attorney, appears on the face of the instrument, and has since been admitted by himself in an affidavit sworn to him in a criminal proceeding in the Supreme Court, instituted at my instance. "The King against Manar Kistnama Chitty," to which I beg leave to refer you. I trust that I have now satisfied you, that I was justified in instituting the prosecution against Linga Reddy, and that although he was acquitted by the Jury, *under*

yonr direciton no just censure is imputable to me, for submitting his conduct to public justice.

With respect to my not having included in the indictment Yusuff Ally, who was represented as having made a seal which was not approved of; Rama-Charry, who was stated to have produced the first forged bond to one of my witnesses: and Meer Hussain Ally, who was described as the person who had made the seal which was affixed to the forgeries: I will briefly declare, without the fear of contradiction, that the name of the former had never reached me, nor was I acquainted with the fact respecting Rama-Charry, until the circumstance respecting both came out in the examination in Court; that the fact respecting the latter, did not reach me until long after the indictment against Linga Reddy and others had been found by the Grand Jury; and, that when the circumstance did come to my knowledge, I made many enquiries about him, with the view of having him apprehended and brought to his trial; but that all the information I could obtain, was, that he was not to be found in the neighbourhood of Madras, and was supposed to be somewhere to the southward, some hundred miles from hence.

It now becomes necessary that I should explain why Sooboo Row, to whom I have already allu-

ded, was not included in the indictment, inasmuch as he, in your opinion, was more criminal than either of the persons charged, on account of his breach of trust, and his abuse of every principle of common honesty. You have stated it to have been sworn that Linga Reddy had given 600 Pagodas to Sooboo Row for making false entries in the dufters, and that he was to have 6 of 16 shares of the ultimate profits of the conspiracy; that this man, (although you presumed I might have had the evidence of Chittore Kistna Row, by whom the bribe was said to have been conveyed to Sooboo Row) remained in the town of Madras, and was not prosecuted at all.

In a letter which I addressed to the Grand Jury of Madras, and to which I shall hereafter advert, I have briefly, but as it should seem, unsuccessfully endeavoured to explain, why Sooboo Row was not included in the indictment against Linga Reddy and others; and although there is one part of the explanation, which, perhaps, should have been omitted, as a statement of what my conduct might have been, if the evidence against Sooboo Row had been more satisfactory; yet, I must now repeat to you, that Sooboo Row was not included in that Indictment, principally, because I had not obtained any direct or satisfactory proof that he had actually made the entry

of the bond in the name of Choeapah Chitty in the duftérs, or that any such entry had been made by any other person; (and you will recollect, that Mr. Goad, admitted, when examined in court, that the Commissioners did not shew me, and further added, that they would not have produced had I required it, the paper, containing the entry of that bond and several others which he then exhibited, when I officially applied for an inspection of all the depositions and vouchers at their office having reference to that claim, for the avowed purpose of instituting a prosecution against the parties concerned in the fraud. From which circumstance, I naturally concluded that the bond had not in reality been entered in the Durbar Records,) and also, because a difference existed between the statements of Meer Baker Saib, and Ram Row another of my witnesses, respecting the nature of the bribe said to have been given to Sooboo Row, the former representing it to have been a payment in cash of 600 Pagodas, the latter stating it to have been partly in cash, and partly in goods; and, because neither of them would undertake to speak from his own knowledge of this latter fact. For these reasons, after duly considering all the circumstances connected with the case, I was advised by Mr. Light, that Sooboo Row should not be included in the in-

dictment; and as I have implicitly followed his advice on all such occasions, I gave way in this respect, but not without reluctance, to his better judgment.

Whatever, therefore, may have been the impressions made on your mind by the hasty, and perhaps, ill-judged expression contained in my letter, respecting Sooboo Row; I trust that the explanation which I have now given, will satisfy you that I was not influenced by any *improper* motive in not including him in the prosecution with Linga Reddy and others, but on the contrary, that I had actually determined and prepared to proceed against him, when I was dissuaded from doing so by my Solicitor, who was more competent than myself to decide whether the evidence was or was not sufficient. Mr. Light will not deny that he gave me the information respecting Soobarow's intentions, nor that he advised me not to include him in the indictment for the reasons stated: but, Sir, does it follow from thence, that in giving me that information, Mr. Light betrayed the secrets of his client? So far from it, the communication was given to me by Mr. Light, without any reserve whatever, as an assurance that had been made to him publicly in his office by Sooboo Row, in the presence of many persons; and, it was also from

Mr. Light that I first understood that Sooboo Row had altered his intentions of coming forwards as soon as the determination of the Chief Justice was made known, to refer the verdicts which have been so much canvassed, for the consideration of His Majesty.

I declare solemnly, that I never made any overtures, nor held out any threat at any time to Sooboo Row; that I had no intercourse with him, but what resulted from the voluntary messages which he sent me; that I never did relinquish the determination which I had formed, of bringing him to justice whenever I should be in possession of sufficient proof to establish any one of the numerous acts of villany, of which I had been informed he was guilty. In proof of this, I repeatedly accused him in my correspondence with the commissioners, as well as in that to Mr. John Fordyce, the general agent for the creditors in England, (which I am ready to hold for your inspection,) as the person through whose means numerous false entries of forged bonds had been made in the Dufters. If, therefore, Sooboo Row has been kept in that state of mental torment so *pathetically* represented in your charge, it could not have arisen from any act of mine, nor from any threat that I had ever conveyed to him. Chittore Kishen Row, whom you mention as the

person by whom the bribe was said to have been conveyed to Sooboo Row, is his brother-in-law, generally believed to be deeply implicated with him in these nefarious transactions; and, as I have been informed, he actually attended in Court at the trial of Linga Reddy, as a witness for the defendant. This ought to satisfy you that I could not depend on *his* evidence.

I shall now proceed to offer an explanation respecting such parts of the charge as relate to Napatty Kishen Row, wherein you state, that Napatty Kishen Row, although a great criminal, was not apprehended; that you neither would, nor could believe that he might not have been apprehended; that the Jurisdiction of the Court attached to the offence committed, and that warrants would have run after the offender, wherever he might have fled for refuge; that all this I must have known, and that you would not shew any indulgence to my ignorance of that, which in so extraordinary a case I undertook to know.

This neglect to have the person of Napatty Kishen Row apprehended, is one of the malversations with which you have charged me, and for bringing which into action, it is said that I *contrived* the abuse of indicting persons without a previous complaint to the Magistrate; and it is this alledged neglect which, I presume, con-

stitutes one of the transgressions to which you allude in another part of the charge, where you have concluded, that I had so transgressed for *the purpose of iniquity*. You admit that the bench warrants went to the Sheriff's Office, and yet are pleased to state, that *there they rest under the direction, and remain at the orders of a prosecutor; and if he choses, they shall not be executed; that if he points out to the Sheriff the person of the man to be taken—he is taken; or, that if he sends the Sheriff on a wild-goose chase to the house of the party indicted, when, perhaps, he knows him not to be there, the Sheriff goes is made a fool of* (I quote your own flowers of diction) *and there it ends*. But you affirm that the process was as much in the power of the prosecutor, as if it was in his own pocket, and he might convert it to what purpose he pleased. These observations would seem to be of a very general nature, and may possibly apply to prosecutors, who may have acted in the manner you supposed. To me, they are in no respect applicable. I shall, therefore, not combat with them. You have long possessed ample means of ascertaining from Mr. Olpherts, the late Sheriff of Madras, *who has long been an inmate of your family*, whether I have on any occasion, sent him, or any of his officers, on any such errand as you

have imagined; and, I confidently refer you to that gentleman, for an assurance, that I have not made him what your charge somewhat more than insinuates.

But, Sir, although these general observations do not touch me, you have been pleased to state, that I converted the process of the Court to improper purposes, by spreading it out into a screen for the guilty at one time, and by twisting it into a scourge for the innocent at another. Unfortunately for the substance, as well as the arrangement of my defence, you have not explicitly stated *in what instances* I have thus abused the process of the Court; but from the context, I am led to believe, that the process was converted into a screen, when I neglected, as you suppose, to cause Napatty Kishen Row to be apprehended.

I have, Sir, in a former part of this letter, endeavoured to shew, that I was not aware of any irregularity on the part of my Solicitor, in the instance wherein he had thought proper to prefer the indictments before a Grand Jury, without informations having been previously taken before a Magistrate; and that, at all events, blame could not attach to me for the prevalence of such a practice. But, in the case alluded to, and with respect to other prosecutions instituted at the

same time, which appear to have drawn upon me this most vehement attack, I consider myself particularly fortunate, in being able to demonstrate, that so far from deserving any blame, I did every thing that was practicable, through *the very channel which you have pointed out as legal and proper*, for securing in the first instance, the person of Napatty Kishen Row.

I had been advised to institute three several prosecutions for conspiracy, against Linga Reddy and others, upon a Bond, purporting to have been granted by the Nabob Wallajah for Star Pagodas 97,914, against Gooropah Chitty and others, upon a Bond from Wallajah for Pagodas 72,500; against Nintra Ramasawmy and Napatty Kishen Row upon a Bond from Omdut-ul-Omrah for Pagodas 10,000; with the view of securing the persons of the different conspirators, and particularly that of Napatty Kishen Row, who was included in all the prosecutions, in consequence of his being represented to be the person who had framed these and other Bonds to an enormous amount. I was also advised by my Solicitor, Mr. Light, to have informations taken before a Magistrate, and they were accordingly prepared from the proofs which I submitted to that gentleman. In order to satisfy the Magistrate of the criminality of Napatty Kishen Row, who had appeared before the commissioners, and claimed as his

sole property, the last-mentioned Bond for 10,000 Pagodas, an application was made by Mr. Light on the 5th of October, 1809, to the Sitting Magistrate, requesting that one of the Commissioners might be summoned to attend the public office on the following day, to produce before the Magistrate, the depositions taken by the commissioners respecting the said Bond, and that the Magistrate would order Nintra Rama Sawmy and Napatty Kishen Row to be taken and brought to the Justice's Office on the following morning, when Mr. Light and myself promised to attend; these requisitions were accompanied by an assurance, that a person would be sent to the office in the course of the same day, to point out the two persons we wished to apprehend.

An application was accordingly made by the magistrate to the Commissioners, and Mr. Goad attended at the Justice's Office, and being requested to produce to Mr Taswell, the sitting magistrate, the depositions required; he most pointedly and repeatedly objected to do so, or to give any evidence on the subject, unless the parties accused were present, and who, he observed, would not, in all likelihood, attend until compelled. Here, Sir, my intentions were completely frustrated, as Mr. Taswell would not act upon the Information which I had previously given and sworn to; and I could not then ob-

tain the benefit of Meer Baker Saib's evidence, for the reasons I have already stated. But whether blame attaches to Mr. Goad for having refused to produce the depositions, or to give evidence, because the parties accused were not present; or to the magistrate for showing the consideration which he did to the refusal of Mr. Goad, you are best able to decide. I am perfectly aware, Sir, that the duties of a magistrate are not restricted, and that he must necessarily, on many occasions, use his discretion, but it is not unworthy of remark, that on a recent occasion perfectly similar to the one to which I have just alluded, and at the instance of the Commissioners, a warrant was issued by the sitting magstrate, and a person apprehended and confined in prison for a considerable time, without any previous notice or summons having been served upon him, although he was then bound over as*

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* This alludes to Beemah Row, who was my principal evidence against Batley. Mr. Goad, although perfectly aware of this fact, and that he had given information before the Justices, and was bound over to appear as a witness, some time prior to the trial coming on, went to the Justice's Office, and lodged informations for perjury against him and Arnachella Row. Here there was no objection *on account of the absence of the parties*; to the contrary, they were never summoned, nor any notice given them to appear, but arrest warrants were issued, and Beemah Row was accordingly seized and confined for the

a material witness in support of a prosecution, instituted before the Supreme Court, and had certainly no intention whatever of going from Madras!

Foiled, as I have stated, I still persisted in my determination to get possession of the person of Napatty Kishen Row; and between the 5th and 16th of October, 1809, I frequently attended with my Solicitor at the Justice's Office, for the purpose of lodging informations respecting the prosecutions against Goorvapah Chitty and others, and Linga Reddy and others, and am perfectly certain that the former were acted upon by the Justices; that summons were first issued, and afterwards warrants against Goorvapah Chitty and Napatty Kishen Row, the latter of whom was now completely alarmed, and kept himself carefully concealed, although I had a person employed for the express purpose of watching his motions. What may have become of these informations I cannot pretend to state; but I am fortunately in possession of the copies of those that were prepared for myself, and delivered to

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greatest part of a day and a night until he could tender Bail on the following day. Arnachella Row was absent from Madras, and I had bail ready for him when he arrived. The Bills against these two people were thrown out by the Grand Jury, the same as the former ones.—Oh, shame, shame!!

the Magistrate, respecting the two Bonds for Star Pagodas 10,000 and Pagodas 97,914; and those respecting the other Bond for Pagodas 72,500 will most likely be found either at the Justice's office, or at the office of the Clerk of the crown. These, Sir, are very important facts, such as I have no doubt will be considered to merit the most serious enquiry, and at the same time I confidently trust, will produce that conviction on your mind, which has ever been impressed upon mine; that my general conduct and character, as well as my humble endeavours in support of a just cause, have been most unfairly and unjustly represented.

From your charge, Sir, it must be inferred, by those who do not know me, that I have been represented to you as a person who had arrogated to himself, a knowledge at least of the minor duties of the learned profession. This, Sir, I can boldly deny. My education and pursuits through life have afforded me little or no opportunity of acquiring any practical knowledge of that nature. I can also most confidently declare, that I never was a party to any criminal prosecution whatever, until I undertook the painful and ungracious task of bringing to light the nefarious acts of swindling, by means of forged Bonds, of the late Nabobs of the Carnatic; and I may safe-

ly add, that I was perfectly ignorant of the nature of an information, and had never, to the best of my recollection, seen or swore to any information before a Magistrate, until such a measure was recommended by my Solicitor, on the occasion which I have before-mentioned.

If you will be pleased to cause enquiry to be made from Mr. Blyth, who, for many years past, has acted as Deputy Sheriff at Madras, I believe you will be assured that on every occasion, when Bench or other warrants have been issued against persons charged criminally by myself, I did every thing in my power to point out to the Sheriff's Officers, the persons of the parties accused. As they have been mostly natives of India, who were utter strangers to me, and whose persons, in all probability, I had never seen ; I have necessarily entrusted to others the duty of identifying the parties charged ; but I have not, in any instance, neglected, personally, to give every facility in my power towards the apprehension of the offenders.

Napatty Kishen Row, you will please to observe, has been indicted at my instance as a party concerned in three conspiracies ; two of the bills were found by the Grand Jury, in the last sessions in 1809, but that respecting the Bond for Pagodas 10,000 was not found. The Grand

Jury, however, being fully satisfied of the guilt of Napatty Kishen Row in that transaction, recommended that he should be indicted for the forgery. A Bill was accordingly prepared at my instance, and immediately sent into the Grand Jury, and found on the following day; and that indictment is still in force. From the time that informations had first been given against him at the Justice's Office, and that he had been summoned to appear before them, he contrived to conceal himself about Madras; but as soon as the bills were known to be found by the Grand Jury, and that Bench warrants were granted, he shortly afterwards, as I have been assured, quitted Madras, nor have I been able to ascertain to what part of India he has fled.

Under all these circumstances, *the truth of which I boldly affirm*, I hope you will be convinced, that so far from manifesting a disposition to screen Napatty Kishen Row, or any other person indicted at my instance, I have uniformly done every thing in my power to bring the parties to justice.

As to Manar Kistnama Chitty, the other person who was indicted with Linga Reddy, and of whom you have been pleased to state, "that he "never had any existence," I can now, after the trial, and many discussions which have since

taken place in Court respecting this man, address you with considerable confidence; but I will first remind you of what you have stated respecting him. You have supposed that the obligee of the Bond in question, and whose son and heir Manar Kistnama Chitty represented himself to be, was a person named Chocopah Chitty, who long resided at Madras, and you state, that if this were so, there could be no pretence for a person who had so much intercourse as myself with the natives, to say, that he could not ascertain whether Kistnama Chitty the son and heir of Chocapah Chitty ever existed or not.

I believe that, by this time, you have been satisfied, that the obligee of the bond is described in the papers delivered by Manar Kistnama Chitty, and Linga Reddy, to Messrs. Harington and Co. as an inhabitant of Trichinopoly, which is distant from Madras upwards of 200 miles; and that it never was pretended or imagined that Chocapah Chitty of Madras and that the obligee of the Bond were the same person.

I am sorry to find that my letter to the Grand Jury in which I stated—"That although I "knew not at the time whether such a person "as Manar Kistnama Chitty did or did not exist, "yet that every exertion had been made to find "him out," should have occasioned so much

perplexity to your mind. I admit, Sir, on reflection, aided by your criticism, that the expression has but ill-conveyed my meaning. But you, who are so well accustomed to unravel difficult sentences, and have shewn yourself so great a master of language, might have discovered what I meant to convey; and with charity, might have excused a mere inaccuracy in my diction. What I intended to state to the Grand Jury, was to this effect: that I had been assured, that a person describing himself as Manar Kistnama Chitty, the son and heir of Chocapah Chitty, had delivered a forged Bond to Harington and Co. that whether such a person as Manar Kistnama Chitty did, or did not exist, I could not pretend to sate; but, that every exertion had been made to find him out, *i. e.* the person who had so delivered the Bond to Harington and Co.

You next accuse me of the suppression of a truth, which you considered *as barefaced and as bad as any assertion of falsehood could have been,* because I made the following statement in my letter to the Grand Jury, "upon the trial of a "person of the name of Linga Reddy, *two Sessions* "*ago*, as a party concerned in the forgery of a "Nabob's Bond for Pagodas 97,914; in the name "of Chocapah Chitty, the witnesses that I "brought forward on that occasion, could not

"speak to the identity of another person of the "name of Manar Kistnama Chitty, who was in- "cluded in the same indictment, but is not yet "forthcoming; from which circumstance, his "Lordship must, I presume, have concluded, that "no such person was in existence." Commenting on this statement, with a view to shew my *suppression of truth*, you say, that the fact of Manar Kistnama Chitty's non-existence was more spoken of than any thing else on the trial; that it was the subject of many observations, and made a great part of your summing up to the Jury; that the non-existence of Manar Kistnama Chitty, as you have been pleased to say, I well knew was not concluded, from the circumstance mentioned in my letter to the Grand Jury, for, that I knew, (as you have further stated,) that you turned to the prosecutors, and asked where Manar Kistnama Chitty was, and that the attorney, with myself at his elbow, answered: "my Lord, I believe there is no such man."

It is possible, Sir, that I may have fallen into an error, by imputing to a wrong cause this conclusion, that no such person as Manar Kistnama Chitty was in existence. I however, stated it only as an opinion, or supposition; and, at the same time, stated the circumstances on which the opinion, or supposition was founded. After all, I

only ventured to presume, that from such circumstances you had drawn your conclusion.

With respect to what passed in Court, at the trial of Linga Reddy, it is not for me to oppose my recollection against yours; I shall only state, that my Attorney never had at any time instructions from me, to admit that there was no such man; although from the difficulty of finding out Manar Kistnama Chitty, I had at times been led to think, that some persons had assumed that name, to execute the letter of Attorney to Harington and Co. as I well knew had been practised on some other occasion. This doubt, perhaps, I might have mentioned to my attorney; but, he had no authority, or reason to make the observation to which you have alluded.

How is it then, that I have merited the harsh and disgraceful imputation of having suppressed the truth?

I shall now solicit your attention, to certain facts, which have established, that Manar Kistnama Chitty has been, and, as I believe, still in existence. Shortly after the publication of your charge, it was suggested to me by many of my friends, that I was most particularly called upon, to shew, if posssible, that the person who had uttered the forged bond to Harington and Co. was in existence; and that he was called, or had

assumed the name of Manar Kistnama Chitty. This suggestion, and the desire of bringing the man to punishment, induced me to make every possible enquiry respecting the person in question, and after considerable exertion I was enabled to discover, that he resided in a village within the Jurisdiction of the Court; and, that although he had absconded to avoid its process, immediately after it had been executed on Linga Reddy, yet, the *acquital* of the latter had inspired him with confidence, and that he had afterwards returned to his former habitation. When I received this information, I took the requisite precaution to insure the apprehension of this person. A native peon, who for many years had been employed by successive Sheriffs at Madras, was entrusted with the execution of the Bench warrant, and he obtained the assistance of another. These persons, assisted by two other natives, one of whom knew the person of Manar Kistnama Chitty, executed the warrant. When the man was arrested, he admitted that he was the person described in the warrant. He was taken to prison, and there, on being asked his name by the goaler, he admitted that it was "Manar Kistnama Chitty," and by that name he was received, by that name he was entered in the goaler's books, and the Sheriff, Mr. Olpherts,

returned on the warraut, "that he had taken the body of Manar Kistnama Chitty."

This person, Sir, as you may recollect, remained in prison a considerable time, without expressing any complaint that he had been wrongfully arrested, and that on the second or third day after his confinement, Mr. Olpherts began to entertain some doubts respecting the identity of the person in his charge, and *for some cause, which has never been explained*, became impressed with an idea that the man who had been arrested and confined was not Manar Kistnama Chitty. With this impression on his mind, Mr. Olpherts proceeded to the prison, and there, as he afterwards admitted in his evidence on the trial, he enquired for "the non-existing person;" Manar Kistnama Chitty being called for by that name, made his appearance before the Sheriff, and by him was interrogated as to his name, parentage, and residence; and, in answer to the enquiries of Mr. Olphert, stated, that his name was Manar Kistnama Chitty. Mr. Olpherts, it should seem, had not yet removed his doubts respecting this man, and must either have supposed that his interpreter had deceived him, or that the prisoner had mistaken, or forgotten his own name; for it appears, that the Sheriff went a second time to the goal, and through the medium of another interpreter, in presence of the

former, repeated his examination of the prisoner. The second enquiry terminated like the first, for the perverse prisoner persisted in stating that his name was Manar Kistnama Chitty. Mr. Olpherts was not yet convinced, but required that the prisoner should write his own name in the Malabar character, he did so, and Mr. Olpherts, as he afterwards stated in his evidence before the Court, delivered the signature to *you, Sir, at your chambers;* when, as you admitted from the Bench, it was interpreted, or translated to you, by the Court interpreter, and proved to be "Manar Kistnama Chitty."

Some time after these enquiries had been made by the Sheriff, an application was made to the Supreme Court on the behalf of the prisoner, and founded on his affidavit, and those of some of his relations and others, for a rule, to shew cause why he should not be discharged out of the custody of the Sheriff, on the ground that he had been illegally arrested. These affidavits, stated, that his real name was Manar Chitty, that when he was arrested, and when he was delivered over to the goaler, he had stated that he was not the person described in the warrant, and that he had never been called or known by the name of Manar Kistnama Chitty. On these affidavits, the Supreme Court, while you were on the bench,

granted the rule applied for; I instructed my Solicitor to shew cause against the rule, and he retained counsel for that purpose.

To satisfy the Court, that the application was a wicked attempt to impose on the Court, and to pervert the cause of Justice; affidavits were sworn to by the several persons who were present at the arrest, by the Goaler, by the head native Peon, who for many years had served under the goaler, and by the native doctor, who attended the prison. The Sheriff's Peon and his assistant, stated, that at the time of the arrest, and when the prisoner was delivered to the goaler, he admitted that his name was Manar Kistnama Chitty, and the latter admission, was confirmed by the goaler, and by his head Peon. This Peon, and the native doctor who had respectively acted as the interpreters of Mr. Olpherts the Sheriff, on the occasions to which I have alluded, deposed to the circumstances which I have already detailed, when the prisoner was twice examined by him at the goal. An application was made by my Solicitor to Mr. Olpherts, to state in an affidavit, what had passed, when he examined the prisoner, respecting his name and history; but, the *Sheriff refused to make any affidavit; and, when examined before the Court*, acknowledged that he had *lost or mislaid the writing* which he had taken from the

prisoner. The Court was pleased to *discharge* the rule which had been obtained, and at the ensuing sessions, I caused an indictment to be preferred against the prisoner for perjury, in swearing that he had never been called, or known by the name of Manar Kistnama Chitty.

This indictment came on to be tried, when as you know, the prisoner had the ablest assistance from Counsel, and the question whether he was, or was not Manar Kistnama Chitty came in issue. After a long trial before a discriminating Jury, assisted by you, Sir, and another Judge; and after examining many witnesses on behalf of the prisoner, *he was convicted*. Motions were afterwards made for a new trial, and in arrest of judgment; but, the Court was of opinion, that the verdict was consistent with the evidence, and that the judgment should not be arrested; and this man, whose *existence was so long doubted* by you, Sir, was afterwards placed in the pillory, and sentenced to a long imprisonment, for the crime of wilful perjury! On this trial of Manar Kistnama Chitty, the Sheriff was examined, and then admitted as I have stated, that he had been twice to the prison to examine the prisoner, and that the result was as I have stated; and you will recollect, that on the same trial, you also stated on examination,

that the Malabar signature of the prisoner, had been delivered to you by the Sheriff, that the interpreter had translated it as I have already mentioned.

From the circumstances which were disclosed at the trial, I am satisfied, that you and the other Judges were convinced, not only that the verdict of the Jury was right; but, that the defendant was the *identical* person who had executed the letter of Attorney to Messrs. Harington and Co. in furtherance of the conspiracy. This, as I have been informed, was unequivocally acknowledged from the Bench, by the Chief Justice, in passing sentence upon the prisoner; and it would seem, that the prisoner had never dreamt of denying that his name corresponded at least, with that of the conspirator, until he was unhappily *tampered with by some wicked and ill-designing person.* I shall conclude my observations on this trial, by stating, my unfeigned regret, that the Peons who had been so long employed by the Sheriff, and the goaler, *should soon after the trial, have been dismissed by the Sheriff from their respective situations; for no other reason that I can learn, than that they gave their honest testimony in support of this prosecution.*

It may be expected, that I should here explain why Manar Kistnama Chitty was not prosecuted

on the indictment which had occasioned his arrest. It was my anxious wish, Sir, that he should have been so prosecuted, and with this view, I caused a copy of the indictment foi the conspiracy, and the papers and evidence relating to it, to be submitted to Mr. Compton, one of the advocates of the Supreme Court, by whose advice I was solely guided in the prosecution for perjury, of which I have spoken. Mr. Compton after perusing the papers, advised me, that the indictment itself was insufficient to obtain any judgment, if the defendant should be convicted; that you, Sir, in a case which had come on for a trial a short time before, and in which I was also prosecutor, had declared an indictment drawn from the same precedent to be so defective, that it would be useless to lay any evidence before the Jury, in consequence of which, my then counsel had consented, that a verdict of acquital should be entered; that the indictment against Manar Kistnama Chitty could not be quashed, because, Linga Reddy had been already tried, and acquited on the same record; that two of the principal witnesses, Mathews Kishen Row, who was privy to the whole of the conspiracy, (but whose evidence I had not formerly obtained, as he was unfortunately absent from Madras, when the trial of Linga Reddy came on,) had recently

died; and Mr. Henry Hawes Harington had proceeded to England, without whose evidence, I could not safely proceed to trial; that the issue, which was tendered by the averments in the indictment for perjury, would virtually challenge the identity of the defendant, as one of the conspirators; and that if the defendant should be convicted and punished for the crime of perjury, the ends of justice might be reasonably attained. Adopting this advice of Mr. Compton, I abandoned the prosecution for the conspiracy.

I have now submitted to you, Sir, a detail of of the foregoing circumstances, not because they were not previously known to you, but with a view that in this letter, which contains a connected defence of my conduct, the different facts may appear, which must *have satisfied you*, that Manar Kistnama Chitty *was not an imaginary person*, whose name had been entered in the Indictment with Linga Reddy, for *unworthy* purposes.

And now, Sir, I trust I have established in my vindication from your aspersions the following points:

That Linga Reddy had been an active conspirator, as well as by endeavouring to support the forged Bond, as by uttering it, and that therefore, he was a fit subject for an Indictment.

That Napatty Kishen Row, would not undoubtedly have been brought to Justice, if I had possessed the means of arresting him; and, that I used every possible exertion for that purpose.

That Sooboo Row, would have been indicted, and that preparatory steps had actually been taken by me to that effect, when I was dissuaded from so doing, by the advice of my Solicitor.

That a *person of the name of Manar Kistnama Chitty, did reside at Madras;* and that a person of that name and description, did deliver the forged bond to Harington and Co. and with it a letter of Attorney, purporting, to be executed by Manar Kistnama Chitty, describing himself to be the son and heir of Chocapah Chitty, of of Trichinopoly, (not Madras) the obligee named in the Bond; and that, therefore, I was justified in including the name of Manar Kistnama Chitty in the indictment against Linga Reddy and others.

I come now to that part of your charge, in which you state what had been addressed by you to the preceding Grand Jury, respecting my conduct in the prosecutions which had passed under your immediate observation. You have been pleased to remark, that you told the Grand Jury, that they ought to be particularly careful in tne investigation of such cases, for it had appeared

before you, that a former Grand Jury *had been deceived into finding a bill against a person who seemed never to have existed;* and that it had also appeared, that some of the parties, who were most guilty, had been allowed to escape unindicted. That perjury had been committed by a witness who did not appear to have had any interest in the prosecution, and that from that, you inferred subornation; that you had said formerly, as you then repeated, that you had no reason for the inference, except that which could not but arise from the nature of the thing, but that you ware unable to dissociate the idea of perjury from subornation.

This, Sir, and the part of your charge which immediately follows it, is specifically applied to *me;* nor is it possible to conceive that any other person could have been meant in the following statement, which I quote from your charge:—
"Why the writer of a letter, to which I shall "now draw your attention, did not take notice of "this as well as of the other two points, I submitted to the last Grand Juries, I do not know. "Did he insist upon his right of acquittal on the "first two because he was innocent? If so, I "might conclude that his silence upon this was "the *consequence of his guilt;* but I do not, and, "I freely acknowledge, had any man asked me

"if I thought the writer of that letter guilty of "the charge, I should have answered—no. I "might now hesitate in answering the question, "because he seems to have taken upon himself "all responsibility, although even at this time, "notwithstanding the pains he has taken to "convince me of it, I hardly think him guilty; "and I will tell you why, for it requires to be "accounted for. His Counsel stated that this "witness had been one of the conspirators, and "had turned against his associates, because he "was cut out in a division of the profits of "their guilt. His perjury consisted in his "swearing that he had not had any concern "(for this is the new mode of admitting appro- "vers) in the crime. Now, whatever my senti- "ments respecting Mr. Brodie (whose name it "would be an affectation of delicacy any longer "to conceal) may be, I could not think him so "stupid as to instruct his Counsel to state one "thing, and to suborn his witness to swear ano- "ther. This I desire to be understood as the "reason, and the only reason why I would have "acquitted him of the charge. But do I think "him blameless? Far from it. This very wit- "ness had sworn in the same manner upon the "two trials:—In the first, Mr. Brodie was ex- "amined and asked how he thought this man

"had obtained a knowledge of the circumstances; "He answered that he derived it from having "been one of the party. I must think that pro- "secutor culpable and criminal, who produces a "witness on a second prosecution after having "believed that he had perjured himself upon the "first; and I could not have supposed any per- "son bronzed and brazened enough to come for- "ward and claim credit from the public for such "proceeding, unless, indeed, he had first suc- "ceeded in pursuading them it was for their in- "terest that prosecutions should be carried on "*by iniquity*, that truth should be disregarded, "and that perjury should pass with impunity."

This part of your charge, however, cloathed by your characteristic delicacy of expression, or qualified by humane ambiguity of phrase, must be considered as imputing to me subornation of perjury; a crime so disgraceful, that if my guilt was really suspected by you, it was due to that justice which you have been appointed to adminis- ter, to have directed a criminal prosecution against me. This you have not thought fit to direct, prefer- ring that mode of accusation, *to which I could not reply;** and I have no present means of manifesting my innocence of this very serious charge, but by the

* At Madras there is no free press, through which an indi- vidual can address the public; and the judge well knew that Mr. Brodie could not reply to him in Court. Ed.

defence of my conduct, which I am now humbly, but anxiously submitting to the public. If I understand this paragraph of your charge, it accuses me of having suborned a witness to give evidence in support of certain indictments which were tried before you: That the witness alluded to, had in fact committed perjury in his examination during one trial and had again been produced to swear in the same manner in support of another indictment: That this witness had sworn that he had no concern in the crime which was then under enquiry; but, that when I was asked how I thought this man had obtained a knowledge of the circumstances which he had proved, I had said "that he derived it from having been one of the party:" That this opinion of mine, involved a disbelief of the evidence of the witness; and that, therefore, by producing him a second time to swear to the same facts, I suborned him to commit perjury. The witness to whom you alluded by these observations, was the person whose evidence and conduct under examination I have already noticed at considerable length—Meer Baker Saib. Whethe. he attended the meetings of the conspirators for the purpose of disclosing their iniquitous proceeding, as he has invariably stated and sworn; or, whether he was a participator in the full measure of the guilt, and afterwards determined to turn informer, are questions

which I cannot decide. I have already stated, that to me, this man uniformly related the transaction, in the same manner he proved it in Court; and it is clear, from Colonel Munro's testimony, that if the witness was at any time criminally engaged in the conspiracies, his repentance was manifested at a very early period.

I trust, Sir, you will perceive, that Meer Baker Saib was produced as a witness, not to establish his own innocence, but, to prove the guilt of others; and, that although in the course of his examination, he may have appeared too solicitous about the justification of his own motives and conduct, yet, that I am not responsible for his answers to questions which I had no reason to expect would have been put to him. You must be perfectly aware also, that if I produce a witness to establish a fact in issue which I know, or believe that he can prove; and, that if the witness during his examination, shall falsly swear to a circumstance which is not in issue, and which I have no reason to know or believe will be examined to, the perjury of the witness, as to the fact which he was *not* produced to prove, cannot possibly implicate me in the moral or legal guilt of subornation.

I produced Meer Baker Saib to prove, that he was privy to the conspiracy charged in the indictment. He proved that he was privy to the tran-

saction, but stated, on further examination, as to his motives for being present, that he pretended to join with the conspirators in order to give information against them; the knowledge of which circumstances alone, led me to consider him the light of a party, and to state the opinion which I gave to the Court on the spur of the moment. The statement which he gave may not have been true. Nor was it to prove his motive that I brought him forward as a witness. You have expressed, no doubt of the fact, that Meer Baker Saib was fully acquainted with the iniquitous proceedings which he described. To establish that fact only he was produced. If indeed I had produced him to prove, that he was acquainted with the conspiracy charged, either knowing that there had been no conspiracy, or that this man was not privy to it; then indeed I might have been justly charged with subornation.

You may have probably read the trials of Hardy and Walker of Manchester in 1794. On these trials, witnesses were produced to prove that they had attended certain societies which were then congregated in England, professedly for the purpose of procuring a reform in parliament, but as the indictments charged for treasonable purposes some of the witnesses stated, that they had attended the several meetings for the purpose of obtaining information, which they

respectively intended to communicate to Government, or in other words, that they were spies; but in delivering their evidence, they were guilty of such contradiction, prevarication, and falsehood on collateral points, that they were treated as persons wholly unworthy of credit, and as far as can be collected from the verdicts, were disbelieved by the Juries.

In the case of Mr. Walker, one Dunn a witness had sworn, that he had attended the meeting of a society at Manchester, believing that it had assembled for constitutional purposes; that he had been uniformly a friend to the constitution, as far as he understood it; that he left the association as soon as he saw the mischievious inclinations of its members; and that he had voluntarily informed against them. In the same breath, the same witness swore, that he continued to attend their meeting from thirty to forty times, when high treason was committed with open doors; and that instead of giving information of his own free choice, he was arrested in the very act of distributing a seditious publication. That this man was guilty of perjury, no person, who was present at the trial, could doubt, and the present Chief Justice of the King's Bench, who was then Attorney General, with the concurrence of the Court, declined to press for a verdict for the Crown, so conscious was he that the evi-

dence of the witness was contradicted. Yet, although there was evident perjury, it was not inferred that the Attorney General, who had produced the witness, was guilty of subornation. Unless I am misinformed, you will also find, that on the trial of Mr. Horne Tooke, witnesses were examined to prove the same facts that had been established on the trial of Mr. Hardy, although their previous evidence had rendered their credibility more than questionable. I trust, Sir, that these cases will serve to illustrate by analogy, what I have, perhaps but imperfectly endeavoured to explain, and that a case of *perjury* may exist, which *can* be dissociated from *subornation*.

But it may be urged, that although I might not have known before the first trial what Meer Baker Saib would swear, respecting his motive for being present at the conspiracies, yet that having heard him give an account of his conduct, which I did not believe, I was bouud to have abstained from producing him as a witness in support of the second prosecution.

On a subject like the present, it might not be decorous to place my humble opinion in opposition to yours; but according to the views, that after much reflection I have been enabled to take of this matter, I cannot satisfy myself that as the Grand Jury had found a bill of indictment, chiefly on the evidence of Meer Baker Saib, it would

have been proper, if lawful, for me, acting on my own notion of the witness's testimony, to abandon a prosecution, which had received so solemn a sanction. While I offer this observation as the result of mature consideration, I must acknowledge, that after the strong remarks which fell from you, during the first trial, respecting the testimony of the witness in question, I was disposed by the feeling of the moment, to abstain from producing him again; but, after consulting with my professional advisers, I was informed, that without the evidence of Meer Baker Saib, the the second indictment could not be supported, and my counsel recommended, that the witness should be produced, but represented to the Jury as a person who had been implicated to a certain extent in the crime which he was about to impute to the defendant.

You, Sir, must recollect, that I had the assistance of the same Advocate and Solicitor, during both of the trials. They heard the whole of your animadversions on the evidence given at the trial of Linga Reddy, by Meer Baker Saib. They, from their professional experience, must be better informed than myself of the mode of proceeding in Courts of Justice; and, if they had been of opinion, that the witness in question had perjured himself during the first trial, they should have

advised me to abandon the second, which could only have been supported by the testimony of the same witness. Even if I had pertinaciously insisted on his being examined, they should have refused to follow my intentions; for, I take it for granted, that no professional person is bound to gratify the wicked disposition of his client, by producing a witness known to be perjured, in order that the client may practice subornation. The fact however, was, (as you may recollect, my counsel informed the Court on the second trial, which gave rise to an application to Mr. Goad to interpret,) that we had been informed by several gentlemen well acquainted with the Moorish language, and who were present at the first trial, that Baker Saib's evidence had been very badly interpreted by the Court Interpreter, from his imperfect knowledge of that language; to which circumstance, we principally imputed the remarks to his disadvantage, which fell from you, in addressing the Jury on the first trial.

I have already stated, that so far from desiring to produce Meer Baker Saib a second time as a witness, my inclination was against it; and, that my professional advisers, instead of informing me of the danger which I was likely to incur, by subjecting myself to the consequences of subornation, did actually advise me to produce the witness

"with all his imperfections on his head." He was accordingly produced, and the advocate for the prosecution did not fail in addressing the Jury to "blacken" (as he was pleased to express it,) the character of the witness. But, in doing so, the learned counsel exercised his own discretion, and did not act from any instructions communicated to him by me. I considered the prosecution as delivered to his management, and did not therefore interrupt him, in the course which he pursued; but, I was then of opinion, and still continue to think, that he exhibited the character of the witness in much stronger colours than the occasion required, and certainly with questionable judgment as an advocate.

I hope I have now satisfied you, that when Meer Baker Saib was produced at the first trial, he was not put forward to prove the matter in respect of which you have been informed that he committed perjury: That whatever opinion to his disadvantage I might have formed from the observations which fell from you in addressing the Jury, I was satisfied, as I have just stated, that his evidence was very badly interpreted, and had no reason to know that he had actually joined in the conspiracy: That what I stated in my evidence, was founded entirely upon Baker Saib's own admission, and not upon any other facts

that had come to my knowledge: That without the testimony of this witness, the second conspiracy could not have been established: That the evidence which he gave, related to the crime of others: That there was reason to believe, that he had obtained his information, for the express purpose of disclosing it: And, that in fact, he was examined at the second trial, by the advice of those whose counsel I was bound to follow.

When these circumstances are considered, and that you have neither directed any prosecution of the witness *for the alledged perjury*, nor of myself *for the crime of subornation*: when I call to mind, that notwithstanding the witness was not only *blackened by the counsel who produced him*, but endured a long and severe cross-examination; and, that although, during the trial, and in summing up the evidence, you made many strong observations, evincing a total disbelief of his evidence; yet, that the Jury found a *verdict on his evidence*, on which the Court the same evening pronounced its judgment; I cannot persuade myself that I have acted improperly, in following the advice of my counsel, and therefore, do expect, that you, Sir, and the world, will acquit me of the foul and disgraceful charge of subornation.

With respect to the blame imputed to me, for not having caused Meer Baker Saib to be regu-

larly admitted as a King's evidence, I answer briefly, that the man would never admit that he had participated in the crime, as an accomplice; and when the propriety of making a disclosure of the facts within his knowledge before a magistrate was intimated to him, he expressed his readiness to do so, if protection was afforded to his person; he being then confined to his house, under apprehension of civil arrest. As I had obtained the first and most material information from Meer Baker Saib, respecting the prosecutions which I had then in contemplation, I was most anxious to have the benefit of his evidence before the magistrate, but it was the opinion of my Solicitor, as well as of the sitting Magistrate, to whom I made more than one application on the subject; that the Justices had not the power of granting such a summons as would afford the protection required. Meer Baker Saib always expressed perfect indifference about being qualified as an approver, by a previous disclosure before a Magistrate, under the confidence, as he said, that he would explain every thing fully, and to the satisfaction of the Court; all which circumstances having been communicated to my Solicitor, he did not seem to be aware of the necessity of doing any act to entitle this man to give evidence, other than that of causing a subpœna to be issued,

requiring the witness to appear and give his testimony. Had any other cause been deemed necessary by my Solicitor, he would no doubt have adopted it.

The next point on which you have auccusd me, regards the *manner* in which the Bill against Linga Reddy and Manar Kistnama Chitty was *procured* to be found by the Grand Jury.

The evidence on which I relied to support this prosecution, has been already detailed and I have particularly explained, that the forged bond had been uttered or delivered to Mesrs. Harington and Co. by a person who represented himself to be the son and heir of the obligee. This person executed a letter of attorney, authorising Messrs. Harington and Co. to recover the amount, and also subscribed an agreement, by which they were to receive 10 per cent. commission, on the amount which they might recover. This letter of attorney and agreement, together with the forged bond, were presented by Messrs. Harington and Co. to the Carnatic commissioners, and a claim preferred by them accordingly. The commissioners having afterwards advertised the claim for investigation, Mr. Henry Hawes Harington, one of the firm of Harington and Co. was examined before them, and deposed on oath, that he had no knowledge of the consideration

for which the bond was granted; that the bond had been delivered to his firm, and that the letter of attorney and agreement, had been executed by Manar Kistnama Chitty, the son and heir of the obligee. This deposition was signed and recorded by the commissioners, with the other papers respecting the claim. When the bill of indictment was sent before the Grand Jury, the names of Mr. Goad, one of the commissioners, and of Mr H. H. Harington were endorsed as witnesses. Mr. Goad was subpœnaed to produce to the Grand Jury all the papers last alluded to, including the deposition on oath, of Mr. H. H. Harington; and as Mr. Goad was examined, I presume they were produced accordingly. Mr. W. Harington, one of the firm of Harington and Co. was a member of the Grand Jury. Mr. H. H. Harington was subpœnaed to give evidence, and, I believe, attended the Court as a witness; but whether the Grand Jury were satisfied with the deposition of Mr. H. H. Harington, or with any explanation of Mr. William Harington, of course I am not enabled to state,—*they however found the bill*. You, Sir, are aware that the commissioners are authorised, by an act of parliament, to take the deposition on oath, and, therefore, conformably with the practice which you have stated to

prevail in *Ireland*, there would seem to have been nothing very extraordinary, or unlawful, even if the Grand Jury had found the Bill against Manar Kistnama Chitty, on *the mere deposition* of Mr. H. H. Harrington, verified as it must have been by Mr. Goad, the commissioner.

These, Sir, are the principal observations suggested by this part of your charge. If my Solicitor or the Clerk of the Crown, neglected to send before the Grand Jury Mr. H. H. Harington, whose name was endorsed on the indictment, and who, I have understood, attended the Court, I was perfectly ignorant of the fact, and am not certainly answerable for its *criminality*. There was no witness sent before the Grand Jury, as I have been informed by my Solicitor, who was not first sworn and afterwards examined in Court, as the Clerk of the Crown must inform you, and I am very certain, that I render but common justice to the intelligent and respectable Grand Jury, which found the bill in question, in stating my conviction, that if I had been wicked enough to send before them witnesses who had not been duly sworn by the officers of the Court, they would undoubtedly have made an immediate report to the Bench, of my criminal attempt to pervert the course of Justice.

Many of your observations, Sir, respecting the

finding of this and the other bills, must equally apply to the Grand Juries, which, to use your candid phrase, had been *trepanned* into acts subversive of law, and repugnant to their oaths; and such observations, are virtually answered by the silence of the gentlemen to whom they allude. For, if the members of the several Grand Juries, had considered your animadversions to be well founded, they would have come forward individually or collectively, to justify their own conduct. They would have redeemed their own character, by consigning me to that punishment, which my conduct has been represented to have merited. My defence against many of the imputations respecting Soobo Row, has been already submitted to you; and as I have shewn that I did not abstain from prosecuting this man, with a view to discoveries of other guilt, I hope, that the severe observations which must have proceeded from your interpretation of my letter to the Grand Jury, will now be considered as unmerited and inapplicable.

To answer, or even notice the many observations on my motives and conduct in respect to Sooboo Row, would lead to much statement and and remark, in the course of which, I might, perhaps, be betrayed into expressions that would seem to be inconsistent with the feeling which I professed towards you, as a Judge in the Court.

The language in which you have conveyed these observations, I will not venture to imitate, for I am unwilling, Sir, to weaken or injure my defence, by any phrase that can possibly be deemed improper; and, I have a character at stake, which I will not pollute by low and vulgar expressions.

I must therefore, content myself with an humble, but confident assertion of my innocence of all the crimes which you have imputed to me, with respect to *threatning, screening*, or *torturing* Sooboo Row; and I boldly challenge any person, from whom you may have received information on the subject, to support the affirmative of what I here most solemnly deny.

I now come towards the close of your charge, where, you say, that six men had been indicted by me, *according to my own course of proceeding;* that is, by having procured a finding of the bills without the intervention of any authority but my own; that by this mode, I had the parties ever since at my own discretion; and, that four out of the six, in consequence of a communication with me, had gone before the commissioners and sworn, that all their former swearing before them and the Court, was false; nay, that they had sworn to their own perjury.—I quote your own words.

"This (*i. e.* their swearing to their own per-

"jury,) was in consequence of a communication "with Mr. Brodie, with the prosecutor, with the "man by whom they had been indicted, with him "who had his curb in their mouths, with him who "held them in his own hand. I will tell you "more; one of them, Narrain Row, after having "sworn that he was foresworn, which might I "think have contented the most insatiable tyran-"ny, Narrain Row, in the presence of Mr. Brodie "(as the other three did likewise) swore to what "I told you. But this Narrain Row further "swore, that the cause of his heaping this infamy "upon his own head, was a promise of pardon "and protection which he had had from Mr. "Brodie. In his answers to questions propoun-"ded by Mr. Brodie himself, he persisted. I "would not assert what I am going to state on the "credit of my own veracity, for I know it will "stagger your faith; you shall have the deposi-"tions; you shall then see, that Mr. Brodie upon "his oath, cannot deny an indirect conveyance "of his sentiments to this fellow; after he had "retired from the commissioners, covered as he "was with *the turpitude* which he had spread "over himself, you will then see, that this abject "slave was brought to run the heat of swearing "the day before, and then deposed upon oath, "that he had not received any such promise from

"Mr. Brodie at all. Here is mental thraldom! "Here is the depth of human degradation! "Mighty and merciful GOD! is this to be endu-"red! was the like ever heard of before, where "religion, where civilization, or, where mankind "was known to inhabit?—don't trust me I beg "of you, it would be too much to ask—but, you "shall have the depositions, and be able to judge "for yourselves. I applied for them to the com-"missioners, in order that I might, as my duty "required, get every possible insight into these "atrocious proceedings; yes, nauseated and sick-"ened as I was; foul and filthy as I found this "sink of corruption, I resolved to go to the bot-"tom of it. I have not said half of what has oc-"curred to me, for I found those villanies rising "and swarming about me, that I more considered "how I should work my way through them, than "any thing else. You may draw your own con-"clusions from the depositions if you wish to "have them. To my mind, the proof is evident, "irresistable, insuperable. I don't say this pro-"secutor is *guilty*, because it is incredible, but "*because it is impossible that he should be other-"wise.* I do not believe it possible, that these "four men, uninfluenced by hope or fear, could "have done as they have done. It is not in the "nature of things, that they should have been

"volunteers in swearing to their own crimes; but, "when I reflect, that they were under prosecu- "tion, and in the hands of the prosecutor; when "it is admitted, that some communication took "place between them and the prosecutor, it is to "me distinct and palpable. I am unable to doubt. "Is a case in which scepticism would stand de- "cided. No asseveration—no swearing—no proof "could move me, any thing of this sort I should "consider as the glimmering of the mid-night "insect, in comparison with the shining of the "noon-day sun. What a degrading—what a "mortifying scene! Talk not of the revolution "of France! Here is terrorism organized and "digested, to which neither the *revolution* of "France, nor the *revolution* of time can furnish "an equal."*

I shall now proceed with all brevity to submit a true statement of the transaction so *elegantly* and *mildly* sketched.—In the year 1810, a bill of indictment was preferred against Anunda Row and five others for conspiracy. It was delivered to the Clerk of the Crown by my Solicitor. The witnesses were sworn in open Court. The indictment was afterwards sent in the usual

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* This precious morcel of nonsense may be of some use in illustrating what kind of persons have lately been elevated to judicial situations in India. Ed.

manner by the Clerk of the Crown before the Grand Jury, who examined the witnesses, and brought it to the Court endorsed "a true bill."—Bench warrants were forthwith issued and delivered to the Sheriff, and persons by my direction attended to point out the defendants, in order, that they might be arrested. After the bill had been found and the warrants issued, three of the defendants sent a message to me, admitting that they were guilty of the offence for which they had been indicted, and intimating that they were ready to confess all that they knew respecting the forgeries of Nabob's bonds.—They added, they did not intend to offer any defence at the trial. The person who brought me the message asked my advice as to the course that these men should take. I recommended that they should make a free and full confession to the commissioners, and to the Court, of every thing that they knew, and that having done so, they should throw themselves on the mercy of the Court. I also stated, that if the information which they might give should be deemed of importance, it might probably be considered in mitigation of their punishment, but that every thing would depend on the judges, and that I could have no influence whatever in the business. A fourth culprit was apprehended, and afterwards

proposed to follow the example of the three of whom I have already spoken. Barrett Anunda Row, who had been before convicted and pardoned with Reddy Row, concealed himself to avoid apprehension, and the other defendant Balmookund Doss, fled from Madras, but whither I could never ascertain. About this time, Venata Row, and Dettajee Moorlapah, two of the defendants who had declared an intention of acknowledging their guilt, came to my house, when I had a personal communication with them, through the medium of a confidential servant, who, I have every reason to belive, interpreted faithfully what passed between us. On this occasion, I confirmed to them what I had stated in reply to their message; when, they gave me to understand, that they had made up their minds to make a full disclosure to the commissioners and to the Court, and were preparing statements to that effect; and I do solemnly believe, from their manner and appearance, that they left me under the impression, that I could not, in any manner, relieve them from the effect of the pending prosecution, and that every thing would depend on their own confession, and the discretion of the Court.

The only other interference with which I can charge myself respecting these men was, the re-

quiring from them a statement in writing, containing the substance of their intended confessions, which they readily furnished me with, detailing the particulars of the forgeries to which they had been privy, or which they had endeavoured to support by false entries in the dufters. These statements or confessions certainly contain expressions which, addressed to me, must be considered fulsome and ridiculous, as I observed to Mr. Goad, when I presented them to the commissioners, at their desire, on the occasion hereafter-mentioned. They solicit my support and and protection; but you, who are so well versed in Oriental language, will understand these expressions with their proper limitation, as words of course from a native to an European. I take it for granted, that hope and fear, the great leading springs of all human actions, may have materially influenced the conduct of these men. But, Sir, does it follow from thence, that they depended upon any assurance of pardon that I had held out to them? To the contrary, you will perceive from an attentive perusal of their declarations, that the only favour they required of me, was, as they express themselves, that I would intercede for them in behalf of the Judges and gentlemen of the Court; from which it must be inferred, that their sole reliance was placed upon the cle-

mency of the Supreme Court. At all events, Sir, I am not answerable for the terms which they have used, and I do solemnly declare, as I have verified by my oath, that I did not on any occasion, directly or indirectly, hold out to any of these unfortunate men, any expectation, that the prosecution against them either could or would be withdrawn; or, that I had the means of procuring their pardon.

Before the sessions for the trial of these men, an accident, which I shall shortly explain, put the commissioners in possession of a paper containing important information, which I had obtained from two of the Durbar servants, named Soondur Row and Runga Row; information indeed, which might have been had long before from the parties themselves, if the commissioners had been disposed to receive their confessions. The two persons last mentioned, as well as the three of those whom I had indicted, were persons who had been employed by the commissioners from the first period of the commission. They had been the servants of the late Nabobs, in different situations; but, Soondur Row and Runga Row, had been in charge of that important part of the records, which immediately related to money loans, and had all of them acompanied the late Reddy Row into the service of the commissioners. They had been corrupted

by Reddy Row, immediately after the accession of the present Nabob, and at his pleasure, and under his orders, had fabricated documents, interpolated papers in support of false claims, and mutilated the Durbar records. During the investigation respecting the bond which led to *the verdicts* in the Supreme Court, some of these men had been examined as witnesses in support of Reddy Row, and of the bond which he had fabricated in the name of Gopaul Row, and swore to many papers and circumstances, which have since been discovered, and which they have acknowledged to be false.

Soon after Reddy Row had destroyed himself, some of these persons, as they have declared on oath, went to the house of Mr. Goad, one of the commissioners, with an intention of confessing their guilt, and making a disclosure of all they knew respecting forgeries that had been entered upon the records; but, it should seem, *that Mr. Goad was not disposed to receive their confessions.* Soondur Row and Runga Row, being thus disappointed, (as I have since understood) then sent me repeated messages by one of their friends, intimating their readiness to make a full disclosure of all they knew to the commissioners, and requesting that I would endeavour to facilitate the means of doing so. From the evidence

which these two persons had formerly given before the commissioners, and in the Supreme Court, I was not at first disposed to listen to their proposal, and therefore, as a proof of their sincerity, desired them to give me in writing information respecting certain bonds which I had reason to suppose would soon be published for investigation by the commissioners, and which, I had been assured, were entered upon the Durbar records since the death of the late Nabob; the information which I required, they granted me accordingly; but, being apprehensive that the commissioners might be offended at their doing so, they exacted from me a promise, that the granting of such a paper was to remain a secret with myself, promising at the same time, that when the bonds to which it referred, were brought under investigation, they would then give the same information to the commissioners, and would readily embrace that opportunity, or any other that might occur, to give whatever other information, they possessed, to the commissioners themselves.

On the 19th of October, 1810, having occasion to address a letter to Government, forwarding a voluminous correspondence which had passed between myself and the Carnatic commissioners here, by an oversight which I cannot account for, a translation of the paper which I had obtained

from Soondur Row and Runga Row, was put up in the packet addressed to the Government, and which, having been handed over to the commissioners, the paper in question was, as I have understood, first discovered by them.

Upon making the discovery, the commissioners sent for me, and having been told, that I was in possession of an original paper in Persian, from Soondur Row and Runga Row, of which the paper they shewed me, purported to be a translation, and having also learnt from me that I had obtained other information of importance from the four persons before alluded to, they desired me to attend at their office on the following day, and to bring with me all the original papers. I waited upon them accordingly, and being aware that the commissioners were authorised by Act of Parliament to enforce the production of all papers having reference to the objects of their commission, I delivered over to them the paper of information which I had received from Soondur Row and Runga Row, as well as the four declarations or confessions alluded to, under a deposition on oath, stating the circumstances which had brought them into my possession. That deposition, as well as those subsequently taken on the same subject, must have been submitted to you. When examined by the commissioners, I answered fully

and freely every question that was put to me, touching my conduct in the transaction, and if you will refer to my deposition, it will be found, that the account which I then gave of my conduct, substantially corresponds with that which I have now submitted to you and the public.

After I had delivered these papers to the commissioners, the parties were separately called and examined on oath, when they confirmed the substance of the information which they had given to me, and made other disclosures of importance, in answer to questions put to them by the commissioners; and these depositions being reduced to writing, are the same which you thought it your duty to obtain from the commissioners. Three out of the four who gave me confessions represented my conduct correctly; but Narrain Row stated, that he had made his confession in consequence of a promise of protection and pardon which I had held out to him, provided he would speak the truth in the Supreme Court. I never had, Sir, at any time either direct or indirectly any personal intercourse with Narrain Row, (nor had I seen his face except at the commissioner's office, and when he was examined as a witness in the Supreme Court in support of Batley and Reddy Row,) until he sent me the message and paper of information above

alluded to, through one of his friends. As my confidential writer had interpreted to me on all such occasions, on my return home, on the same evening after the examination of Narrain Row, I mentioned to him the extraordinary fact which had been sworn to by the person last mentioned, demanding, at the same time, whether any such promise had been in truth held out by him to Narrain Row, which he assured me had never been the case. My writer in consequence of my warmth and solicitude on the subject, immediately sent a person to Narrain Row, to ascertain upon what authority he had made an assertion so contrary to the fact. Early on the following morning my writer waited upon me, and assured me that Narrain Row was sensible of the mistake which he had committed, and had promised to explain that part of his deposition, when it should be read over to him by the commissioners. In pursuance and redemption of this promise, and either to correct a mistake, or to deny a fslsehood, but not as you have expressed it, "to run the heal of his swearing the day before." Narrain Row again attended the commissioners, and then stated (and I boldly and incontrovertibly assert, that he stated truly,) that I did not promise him either pardon or protection.

By a voluntary deposition on oath before the

commissioners, I have solemnly denied that I made the promise to Narrain Row, which he mentioned in his first statement; if any such promise had been made to him, in all probability, a similar promise would have been given to the other defendants who were similarly circumstanced, and with whom I had personally communicated, but that they have respectively denied; and my writer, Runga Row, as well as Hunmunt Row, the person who came to me on the part of Narrain Row, (both respectable Brahmins,) are ready, whenever you shall afford them the occasion, to confirm, by the most solemn oath that their religion will permit, the truth of what I have already sworn.

This, Sir, is a true statement of all that passed between me and the four persons who acknowledged their participation in these numerous forgeries; a statement, which I am prepared to verify, if you afford me an opportunity of publicly justifying my conduct. And, Sir, I trust that you cannot compare this statement, with the extract that I have quoted from your charge, without acknowledging, that I have been unjustly censured; and I hope, that although in the warmth of the moment, you may have declared that "no asseveration—no proof—no swearing could move you;" that you will now be disposed to exercise

that impartial attribute, which belongs to the character of a British Judge, and that you will admit that I have at least, been condemned, unheard,—and, considering the place where it proceeded, *shamefully traduced*.

With respect to the prosecution of Mr. Batley, I shall say but little. It was not until the examination of Mr. Batley before the commissioners in the month of December, 1810, that I had even contemplated a prosecution against him; and my Solicitor had certainly no authority from me, to tell you, that I was about to prosecute Mr. Batley, immediately after the sessions next preceding your charge. Whether indeed, any prosecution would have been instituted after all, (in the absence of a material witness, to prove his participation in the conspiracy, I mean Major Winslow, who is now in England,) is more than doubtful, if your charge *had not in a manner forced me to bring it forward*. Mr. Batley has, however, been indicted, and acquitted. The four men who gave me their declarations, who were included in the same indictment with Mr. Batley, and who were persuaded by me to swear to their own crimes, have also been tried and acquitted. Mr. Batley, you well know, was only included in one indictment; but these four men, as well as Soondur Row and Runga Row, were also prosecuted

by the commissioners, on seperate charges for perjury, and the two latter also for a conspiracy; all of which indictments were founded upon the confessions which had been delivered by the commissioners to you, in respect of which confessions, and when the parties were under examination at their office, the commissioners exacted from me a pledge, that I should not, as their prosecutor, produce the testimony they then gave against the parties as evidence on their trials, giving for reason, that they considered the depositions they were then taking, as an ex-parte proceeding altogether. Why, after exacting from me such a promise, the commissioners should have submitted these documents to you the Judge, before whom the defendants were to be tried, I am at no loss to conjecture; but, it will require something more than a common assurance to satisfy my mind, that the commissioners acted from their own free-will in directing any of these prosecutions, particularly those against Soondur Row and Runga Row, after the repeated assurances that they had given me, and which they had confirmed by a recent determination, as they informed me of not becoming a party to any prosecutions, which they considered no part of their duty, but to the contrary, would tend to embarrass their proceedings.

You will probably here observe, that these depositions were produced as evidence against the parties on the trial; but if you refer to my Solicitor, he will state the fact, that I did resist the production of these papers, for the reasons that I have mentioned; but, that I was over-ruled, and given to understand, that if I did not permit him and my counsel to use their discretion in the management of the trial, they neither could nor would act for me.

I have now, Sir, gone through the whole of your charge, and, I believe addressed myself to every material accusation against me; but before I conclude, I must beg permission to explain, under what circumstances I was induced to write that letter to the Grand Jury, which has given you so much offence.

It had been represented to me, that when you charged the Grand Jury to which the letter was addressed, you animadverted in strong and severe language on my conduct during the trials of Linga Reddy and Goorvapah Chitty; that although you had not mentioned me by name, the allusions to me as prosecutor, could not be mistaken. That besides accusing me of *subornation*, in bringing forward Meer Baker Saib as a witness, you had distinctly charged me with having indicted a person, who, I knew did not exist, *with*

no good intention, but with a view to make out the crime of conspiracy, there were other expressions stated to have fallen from you, which I am anxious to believe, could not have proceeded from a British Bench of Justice, against a man whose conduct was not judicially in question. After this charge which had been so represented to me, and while I felt myself held out to society as an object of censure end contempt, I was sworn as a witness, and called before the Grand Jury, in support of a bill of indictment which I had then preferred. When I had finished giving the information required of me by the gentlemen of the Grand Jury, I was accosted by Mr. John Binny, senior, one of the Jurors, who sarcastically enquired of me, " whether I had ascertained that the persons included in the indictment were all in being." This question had an evident allusion, Sir, to your charge, and argued a belief, that Mr. Binny had entertained an impression to my disadvantage; but an impression was easily made, when there was a pre-disposition towards receiving it.

Mr. Binny had been one of several gentlemen, including the Company's Advocate General and Solicitor, who constituted a kind of partnership in the purchase of numerous Nabob's bonds, the whole of which, I have good reason to know, had been purchased on the recommendation or favour-

able report of Reddy Row and Mr. John Batley; but which, from the information which I had obtained, I had impeached as forgeries. Mr. Binny for this reason, felt but little kindness towards me, and from the sarcastic appearance of his countenance, when he put the question alluded to, I could easily discover, that your charge, respecting myself, had afforded to him no slight degree of gratification. I acknowlege, that my feelings were no less hurt by the question, than by the manner of putting it; and, that I gladly availed myself of that opportunity, of stating to the Grand Jury, the part that I had truly acted in the trials which had been the subject of your animadversions.

When I had finished my statement, I called upon the Grand Jury to interfere, and to afford me the means of publicly vindicating my character, from the cruel and unjust aspersions with which I had been loaded. Several of the Grand Jury admitted, and it seemed to be the general opinion of the whole of them, that the remarks from the Bench had been very *severe*, and were evidently pointed at me; but they added, that they did not know that they could afford me the means of relief, or take notice of my explanation, unless it came before them in some *regular* shape; and some of the Jurors who were near me, (and

amongst whom was the foreman) recommended, that I should submit an explanation of my conduct in the form of a letter addressed to the Grand-Jury. Availing myself of this suggestion, and without consulting with any person whatever, the letter which has been incorporated in your charge, was hastily penned on the morning after my examination, and placed on the Grand Jury table before ten o'clock of that day. It is not for me to explain from what *motives*, or with what *view* the letter was presented to you by the Grand Jury; but, I was no less mortified than surprised, when I learnt that you had flung it from you with indignation before you had even read the contents of it. This circumstance, convinced me, that you must have been offended by the course that had been taken to submit my explanation, rather than by the explanation itself; for you have admitted, that you did not read the letter.

I cannot refrain from observing, Sir, that if my conduct was irregular in addressing the letter to the Grand Jury, (a concession that I cannot make in justice to myself;) or, that if the letter itself was unfit to be received by a Judge from a Grand Jury, it would have been quite as consistent with *judicial dignity*, to have explained the irregularity of the proceeding, or to have shown to the Grand Jury that the presenting such a letter was

inconsistent with their duty. You, however, thought fit, Sir, to fling the letter from you with indignation; the Grand Jury was dismissed; and when the body became dissolved, the functions of the foreman of course expired with it. The letter might, indeed, have been picked up, and possessed by the gentleman who had acted as foreman; but his possession of it was no longer as foreman of the body to which it had been addressed. I concur with you in the esteem which has been expressed for the character of the gentlemen alluded to; but I must, at the same time, be permitted to observe, that when the session was terminated, the letter ought either to have been returned to me, or destroyed; and that he, as an individual, should not have delivered to you, acting extrajudicially, a paper which was not addressed to him individually; and which you, in your judicial character, had refused to receive, when presented by the same gentleman as foreman, at the head of the body to which the letter was addressed.

Before I proceed to make the few remaining remarks respecting my unfortunate letter, I must beg leave to assure you, that I had no motive whatever in stating two sessions to have intervened since the trial of Linga Reddy, which you have condescended to represent as a *wilful*

falsehood on my part. The impressions on my mind at that time was, that Linga Reddy had been tried in the sessions held in April, and that Goorvapah Chitty had been tried in those held in July, instead of which, upon enquiry, I find that these two trials came on at different periods of the sessions, and that you certainly arrived at Madras before the close of the April sessions. When you take into consideration the peculiar circumstances and hurry, under which the letter in question was written; and that it avows to have been addressed to the Grand Jury, with the view of being submitted to your consideration, it can hardly be supposed that I could ever have in contemplation to mistate that fact, for the purpose of making invidious remarks upon your conduct; a feeling which I declare never once entered my mind. The other matters to which the letter relates, have already been generally considered, and, as I trust, explained to your satisfaction.

It is admitted that you, Sir, had made several strong animadversions on my motives and conduct, to a Grand Jury, before whom, you must have been aware, I was to be examined as a witness. If I had really been the wicked person your charge had described, I must have been considered by the Grand Jury as wholly unworthy of

belief. My character as a man and a gentleman was most pointedly called in question. Whether you described me as the prosecutor of the indictment against Linga Reddy, or by my family name, the respectability of which I have never disgraced; the designation must have been equally understood. With a knowledge of what you had stated, as is admitted by the subsequent charge, and with an assurance and belief that much stronger language had been used, than even you have admitted, I entered the Grand Jury room as a witness. My feelings, as you may suppose, were not of an enviable nature. To have been silent after I had been accosted by Mr. Binny, in the manner that I have already described, might have been construed into an admission of his mean and illiberal insinuation, and to have abstained from an honest explanation of my conduct, would have been an unmanly derelection of every principle by which the human mind should be regulated. I had wished, Sir, I had anxiously wished for an opportunity of justifying my character; the occasion seemed to have presented itself, and I readily availed myself of it, to exculpate myself from the charges which you had imputed to me. I was recommended to commit my explanation to writing, and I did so. I was advised to address

a letter to the Grand Jury, and I addressed it accordingly. If in writing that letter, I have violated any rule of law; or have transgressed any rule of decorum, I shall be ready to acknowledge, and atone for my error, whenever my error shall be manifested.

If the letter itself contains any expression, that can be deemed even remotely disrespectful or offensive, my pen has but ill-performed the intentions of my mind. I endeavoured to couch my explanation in the most mild and moderate terms that could be employed, consistently with a plain denial of your imputations, and a firm assertion of my own innocence; for, hastily as the letter was written, I well knew what was due to your situation, and in abstaining from strong and intemperate expressions, I also knew what was due to myself.

The conduct which I have manifested, in bringing to light the scandalous practices of some of the confidential servants of the late Nabobs of the Carnatic, and those concerned with them,* has raised up against me a host of enemies in this settlement; and many persons who are

* The late Advocate General, Anstruther, and the company's Solicitor, Orme.

likely to suffer by those discoveries, have been actively employed in calumniating my character as one means of re-establishing their own. The recollection of the pecuniary losses which they have sustained, by my detection of frauds, and exposure of forgeries, is a never ceasing stimulus to malicious, but insidious attacks against me, which I can have no opportunity to answer, much less to refute. Unfortunately for men of honest principles, some of the persons alluded to, are in respectable and confidential situations, the possession of which is calculated to give a sanction to their opinions, because such situations are usually filled by men of integrity; and I know full well, that these persons have availed themselves of the means which they possess in virtue of such situations, to poison the minds of those, who, when they came to this place, expressed unqualified determination to take no part in these unfortunate discussions, which have occasioned so much agitation in this society.

I shall now conclude my long letter, by repeating what has been already very often expressed—my sincere hope, that I have satisfied you of my innocence of all the charges which have been imputed to me. If I have been so fortunate, I am certain that you will devise some early and effectual means of relieving me from that unjust

censure, under which my character has so long been placed. If, however, unfortunately for me, this letter shall not produce the effect, which I most earnestly desire, I shall then hope, that you will be pleased to direct some proceeding to be instituted against me, founded on the statements contained in your charge, *so that I may be enabled to submit my conduct to the public justice of the country.** I feel the more emboldened in making these requests, because from the time that has elapsed since the publication of your charge, many circumstances have passed in review before you, judicially and otherwise, which were calculated either to establish my guilt, or to demonstrate my innocence.

To suppose, Sir, that I have not suffered, or to admit that I have but slightly suffered, from the many imputations thrown upon my character by your charge, would be virtually to confess myself guilty, or at least, capable of the foul crimes with which I have been so abundantly loaded. I have suffered often and acutely, but my sufferings, however repeated or painful, are little known

* Although the libel contained in the jury's charge is clearly actionable, and indictable, his exemption from the jurisdiction of the Court at Madras deprives Mr. Brodie of a legal remedy in India. Ed.

but to myself. I am not, Sir, a common adventurer, like many persons who come to India, without either relatives or connections of any standing in society, and who rise into a certain degree of local importance, from the operation of fortuitous events, or the accidental acquirement of wealth. It has been my good fortune to have sprung from a family which has procured for me these advantages; and I trust that I shall never forfeit by any dishonourable action, the friendship and good-will of the many respectable acquaintances which I have formed in the three quarters of the world which I have visited, much less intail the highest disgrace upon a family hitherto without a stain.

These, Sir, are the feelings which have involuntarily obtruded themselves upon me, when I took an extended view of your charge, which has *found its way* into all the news-papers, and other publications in India, and been also converted, for the object of more extended publicity, *into a small pamphlet, and as I have been informed with your sanction.* I confidently hope that the appeal which I have thus made to your justice, will not be wholly unsuccessful; and that you will make allowance for any warmth which I may have accidentally betrayed, when you consider this letter as proceeding from a person, who, being fully

conscious of his own innocence, perhaps feels too securely of the heavy imputations which have been aimed against it, by one who is protected from the consequences of having uttered them.

I have the honour to be,

Sir,

Your very obedient servant,

(Signed) W. D. BRODIE.

Madras, 12*th February*, 1812.

A true copy—W. D. Brodie.

Eling and Co. Printers, Richmond.